AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

6-4-85
Vol. 50 No. 107
Pages 23393-23660

Federal Register

Tuesday
June 4, 1985

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Federal Aviation Administration

Cable Television
Federal Communications Commission

Census Data
Census Bureau

Civil Rights
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Food and Drug Administration

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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How To Cite This Publication: Use the volume number and the page number. Example: 50 FR 12345.

Selected Subjects

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Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Regulation 347]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 347 establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period June 7–June 13, 1985. The regulation is needed to provide for orderly marketing of fresh Valencia oranges for the period specified due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: Regulation 347 (§ 908.647) is effective for the period June 7–June 13, 1985.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone: 202–447–5975.

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

The regulation is issued under Marketing Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Valencia Orange Administrative Committee (VOAC) and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The regulation is consistent with the marketing policy for 1984–85. The committee met publicly on May 28, 1985, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges for the specified week. The committee reports that the current level of domestic demand is not expected to continue during the next two weeks. Wholesale and retail inventories of Valencia oranges are high, and significant competition from deciduous fruit has begun.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because there is insufficient time between the date when information upon which the regulation is based became available and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. To effectuate the declared policy of the act, it is necessary to make the regulatory provisions effective as specified, and handlers have been notified of the regulation and its effective date.

List of Subjects in 7 CFR Part 908

Marketing Agreements and Orders, California, Arizona, Oranges (Valencia).

1. The authority citation for Part 7 CFR 908 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 908.647 is added to read as follows:

§ 908.647 Valencia Orange Regulation 347.

The quantities of Valencia oranges grown in California and Arizona which may be handled during the period June 7, 1985, through June 13, 1985, are established as follows:

(a) District 1: 280,000 cartons;
(b) District 2: 420,000 cartons;
(c) District 3: Unlimited cartons.

Dated: May 30, 1985.

Thomas R. Clark,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 85–13412 Filed 6–3–85; 8:45 am]

BILLING CODE 3410–02–M

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 85–036]

Brucellosis in Cattle; State and Area Classifications

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the regulations governing the interstate movement of cattle because of brucellosis by including Medina County, Texas, in the portion of Texas designated as Class B rather than in the portion of the State designated as Class C. This action is necessary because it has been determined that Medina County together with the previously designated Class B Area of Texas meets the standards for Class B. The effect of this action is to relieve certain restrictions on the interstate movement of cattle from Medina County, Texas.

DATES: Effective date of the interim rule is June 4, 1985. Written comments must be received on or before August 5, 1985.

ADDRESSES: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, Hyattsville, MD 20782. Written comments may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas J. Holt, Cattle Diseases Staff, VS, APHIS, USDA, Room 817, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8711.

SUPPLEMENTARY INFORMATION:

Background

The brucellosis regulations (contained in 9 CFR Part 78 and referred to below as the regulations) provide a system for classifying States or portions of States according to the rate of brucella

infection present and the general effectiveness of a brucellosis control and eradication program. The classifications are Class Free, Class A, Class B, and Class C. States or Areas which do not meet the minimum standards for Class C are required to be placed under Federal quarantine.

The brucellosis Class Free classification is based on a finding of no known brucellosis in cattle for the period of 12 months preceding classification as Class Free. The Class C classification is for States or Areas with the highest rate of brucellosis, with Classes A and B in between. Restrictions on the movement of cattle are more stringent for movements from Class A States or Areas compared to movements from Free States or Areas, and are more stringent for movements from Class B States or Areas compared to movements from Class A States or Areas, and so on. The restrictions include testing for movement of certain cattle from other than Class Free States or Areas.

The basic standards for the different classifications of States or Areas concern maintenance of: (1) A State or Area-wide accumulated 12 consecutive month herd infection rate not to exceed a stated level; (2) a Market Cattle Identification (MCI) reactor prevalence rate not to exceed a stated rate (this concerns the testing of cattle at auction markets, stockyards, and slaughtering establishments); (3) a surveillance system which includes a testing program for dairy herds and slaughtering establishments, and provisions for identifying and monitoring herds at high risk of infection, including herds adjacent to infected herds and herds from which infected animals have been sold or received under approved action plans; and (4) minimum procedural standards for administering the program.

The State of Texas is divided into a Class B Area and a Class C Area. Prior to the effective date of this document, Medina County was included in the Area of Texas designated as Class C. This Area of Texas was designated as Class C rather than a higher classification because of the herd infection rate and the program reactor rate. The State of Texas has requested that the boundary line separating the Class B and Class C Counties be changed to include Medina County within the Class B Area. To attain and maintain Class B status, a State or Area must, among other things, maintain a 12 consecutive month adjusted MCI reactor prevalence rate not to exceed three reactors per 1,000 cattle tested (0.30 percent), and must maintain an accumulated 12-month herd infection rate for brucellosis in cattle not to exceed 15 herds per 1,000 (1.5 percent). A review of brucellosis program records establishes that Medina County together with the previously designated Class B Area of Texas meets the standards for Class B.

Executive Order and Regulatory Flexibility Act

This rule is issued in conformance with Executive Order 12291 and has been determined to be not a major rule. Based on information compiled by the Department, it has been determined that this rule will not have a significant effect on the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have any significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

Changing the status of a portion of the State of Texas reduces testing and other requirements on the interstate movement of certain cattle. Cattle moved interstate are moved for slaughter, for use as breeding stock, or for feeding. Testing requirements for cattle moved interstate for immediate slaughter, or to quarantined feedlots are not affected by the change in status. Also, cattle from Certified Brucellosis-Free Herds moving interstate are not affected by the change in status. It has been determined that the change in brucellosis status made by this document will not affect marketing patterns and will not have a significant economic impact on those persons affected by this document.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Emergency Action

Dr. John K. Atwell, Deputy Administrator of the Animal and Plant Health Inspection Service for Veterinary Services, has determined that an emergency situation exists which warrants publication of this interim rule without prior opportunity for public comment. Immeditate action is warranted in order to delete unnecessary restrictions on the interstate movement of certain cattle from Medina County, Texas.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 533, it is found upon good cause that prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest, and good cause is found for making this interim rule effective less than 30 days after publication of this document in the **Federal Register**. Comments have been solicited for 60 days after publication of this document. A document discussing comments received and any amendments required will be published in the **Federal Register**.

List of Subjects in 9 CFR Part 78

Animal diseases, Cattle, Hogs, Quarantine, Transportation, Brucellosis.

PART 78—BRUCELLOSIS

Accordingly, 9 CFR Part 78 is amended as follows:

1. The authority citation for Part 78 continues to read as follows:

Authority: 21 U.S.C. 111–114a–1, 114g, 115, 117, 120, 121, 123–125, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

§ 78.20 [Amended]

2. Section 78.20(c) is amended by adding "Medina," after "Maverick," in the list of Texas counties.

3. Section 78.20(d) is amended by removing "Medina," from the list of Texas counties.

Done at Washington, D.C., this 29th day of May 1985.

J.K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 85–13300 Filed 6–3–85; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL RESERVE SYSTEM

12 CFR Part 201

Extensions of Credit by Federal Reserve Banks; Changes in Discount Rate

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors has amended its Regulation A, "Extensions of Credit by Federal Reserve Banks," for the purpose of reducing discount rates. The action was taken against the background of relatively unchanged output for some time in the industrial

sector of the economy, stemming heavily from rising imports and a strong dollar. Price pressures, while clearly a continuing concern in some areas, appear to remain relatively well contained in goods-producing sectors of the economy, and sensitive commodity prices are generally at the lowest levels in about two years. Growth of the monetary aggregates has slowed appreciably, although M1 has remained somewhat above the path implied by the annual target.

EFFECTIVE DATE: The changes were effective on the dates specified below.

FOR FURTHER INFORMATION CONTACT: William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202/452-3257), or Joy W. O'Connell, TDD (202 452-3244).

SUPPLEMENTARY INFORMATION: Pursuant to the authority of 5 U.S.C. 553(b)(3)(B) and (d)(3), these amendments are being published without prior general notice of proposed rulemaking, public participation, or deferred effective date. The Board has for good cause found that current economic and financial considerations require that these amendments be adopted immediately.

List of Subjects in 12 CFR Part 201

Banks, banking, Credit, Credit Unions, Foreign banks.

For the reasons outlined above, the Board of Governors amends Part 201 as set forth below:

PART 201—[AMENDED]

1. The authority citation for 12 CFR Part 201 continues to read as follows:

Authority: Secs. 10(a), 10(b), 13, 13a and 19 of the Federal Reserve Act (12 U.S.C. 347a, 347b, 343 et seq., 347c, 348 et seq., 374, 374a, and 461); and sec. 7(b) of the International Banking Act of 1978 (12 U.S.C. 347d), unless otherwise noted.

2. Section 201.51 is revised to read as follows:

§ 201.51 Short-term adjustment credit for depository institutions.

The rates for short-term adjustment credit provided to depository institutions under § 201.3(a) of Regulation A are:

Federal Reserve Bank	Rate	Effective
Boston	7.5	May 20, 1985.
New York	7.5	May 20, 1985.
Philadelphia	7.5	May 24, 1985.
Cleveland	7.5	May 21, 1985.
Richmond	7.5	May 20, 1985.
Atlanta	7.5	May 20, 1985.
Chicago	7.5	May 20, 1985.
St. Louis	7.5	May 21, 1985.
Minneapolis	7.5	May 20, 1985.
Kansas City	7.5	May 20, 1985.
Dallas	7.5	May 20, 1985.
San Francisco	7.5	May 21, 1985.

3. Section 201.52 is revised to read as follows:

§ 201.52 Extended credit to depository institutions.

(a) The rates for seasonal credit extended to depository institutions under § 201.3(b)(1) of Regulation A are:

Federal Reserve Bank	Rate	Effective
Boston	8	May 20, 1985.
New York	8	May 20, 1985.
Philadelphia	8	May 24, 1985.
Cleveland	8	May 21, 1985.
Richmond	8	May 20, 1985.
Atlanta	8	May 20, 1985.
Chicago	8	May 20, 1985.
St. Louis	8	May 21, 1985.
Minneapolis	8	May 20, 1985.
Kansas City	8	May 20, 1985.
Dallas	8	May 20, 1985.
San Francisco	8	May 21, 1985.

(b) The rates for other extended credit provided to depository institutions under sustained liquidity pressures or where there are exceptional circumstances or practices involving a particular institution under § 201.3(b)(2) of Regulation A are:

Federal Reserve Bank	Rate	Effective
Boston	7.5	May 20, 1985.
New York	7.5	May 20, 1985.
Philadelphia	7.5	May 24, 1985.
Cleveland	7.5	May 21, 1985.
Richmond	7.5	May 20, 1985.
Atlanta	7.5	May 20, 1985.
Chicago	7.5	May 20, 1985.
St. Louis	7.5	May 21, 1985.
Minneapolis	7.5	May 20, 1985.
Kansas City	7.5	May 20, 1985.
Dallas	7.5	May 20, 1985.
San Francisco	7.5	May 21, 1985.

Note.—These rates apply for the first 60 days of borrowing. A 1 percent surcharge applies for borrowing during the next 90 days, and a 2 percent surcharge applies for borrowing thereafter. Where credit provided to a particular depository institution is anticipated to be outstanding for an unusually prolonged period, the time period in which each rate under the structure is applied may be shortened, and the rate may be established on a more flexible basis, taking into account rates on market sources of funds.

By order of the Board of Governors of the Federal Reserve System, May 28, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-13276 Filed 6-3-85; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563

[No. 85-420]

Rescission of Accounting Rule for Financial Options

Dated: May 24, 1985.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Board is rescinding a newly adopted accounting rule (and reinstating the prior rule) pertaining to financial options transactions engaged in by institutions whose accounts are insured by the Federal Savings and Loan Insurance Corporation. The Board instead will solicit the public's views on this subject, *see* companion Board Resolution No. 85-421, published elsewhere in this edition of the **Federal Register**.

EFFECTIVE DATE: April 24, 1985.

FOR FURTHER INFORMATION CONTACT: Robert J. Pomeranz, Policy Analyst, Office of Policy and Economic Research, (202) 377-6209; M. Christian Mitchell, Accounting Fellow, Office of Examinations and Supervision, (202) 377-6837, or Joseph Longino, Attorney, Office of General Counsel, (202) 377-6446; Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION:

List of Subjects in 12 CFR Part 563

Savings and loan associations, Savings banks, Securities.

Accordingly, the Federal Home Loan Bank Board hereby amends Part 563, Subchapter D, Chapter V of Title 12, *Code of Federal Regulations*, as set forth below.

1. The authority for 12 CFR Part 563 continues to read:

Authority: Sec. 409, 49 Stat. 160, secs. 402, 403, 407, 48 Stat. 1256, 1258, 1260, as amended (12 U.S.C. 1725, 1726, 1730); sec. 5A, 47b Stat. 727, as amended by sec. 1, 64 Stat. 256, as amended; sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1464). Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071.

2. Revise paragraphs (g) (2) and (3) of § 563.17-5 as follows:

§ 563.17-5 Financial options transactions.

* * * * *

(g) *Accounting.*

* * * * *

(2) *Option commitment fee.* The option commitment fee paid or received shall be amortized to income or expense over the term of the option, except as

provided in subparagraph (3)(ii) of paragraph (g) of this section.

(3) *Options contracts.*

(i) Gains or losses on options contracts that are matched with assets or liabilities carried at the lower of cost or market value or carried at market value shall be considered in determining the market value of the asset or liability.

(ii) Options positions that are matched with assets or liabilities carried at cost or to be carried at cost shall be accounted for as follows:

(*a*) If a commitment fee will be or has been received with respect to the matched asset, the option commitment fee shall be treated as an adjustment of such fee. The adjusted commitment fee shall then be treated as a fee paid or received in connection with the matched asset;

(*b*) If a commitment fee has not been received with respect to a matched asset, the option commitment fee shall be amortized to income or expense over the commitment period by the straight-line method;

(*c*) Any resulting gain or loss from an option position shall be treated as a discount or premium on the matched asset or liability;

(*d*) In the event that the cash market or forward commitment position with which an option is matched is sold or will not occur, the option shall be marked to market.

(iii) The immediate exercise value of short puts and other unmatched option positions shall be carried at their current market value.

By the Federal Home Loan Bank Board.

Nadine Y. Penn,

Acting Secretary.

[FR Doc. 85-13388 Filed 6-3-85; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-NM-38-AD; Amdt. 39-5077]

Airworthiness Directives; British Aerospace Model BAe-146 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: On March 15, 1985, the FAA issued telegraphic Airworthiness Directive T85-05-51, effective upon receipt, to all known U.S. operators of British Aerospace Model BAe-146 airplanes. The airworthiness directive (AD) required and inspection for fuel leakage into the passenger cabin from the center fuel tank and limits the amount of fuel allowed in that tank. On March 22, 1985, AD T85-05-51 was revised, as a result of further investigation, to require the center fuel tank to be drained and the airplane not dispatched with center tank fuel until a specified modification is incorporated. This action was prompted by reports of center tank fuel leaking into the passenger cabin. This action publishes telegraphic AD T85-05-51 R1.

DATES: Effective June 24, 1985.

This AD was effective earlier to all recipients of telegraphic T85-05-51 R1 dated March 22, 1985. Compliance required before further flight after the effective date of this AD, if not already accomplished.

ADDRESSES: The applicable service information specified in this AD may be obtained upon request to British Aerospace, Librarian for Service Bulletins, Box 17414, Dulles International Airport, Washington, D.C. 20041, or may be examined at the FAA, Northwest Mountain Region, Seattle Aircraft Certification Office 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Dean Klempel, Standardization Branch, ANM-113, Seattle Aircraft Certification Office; telephone (206) 431-2907. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168.

SUPPLEMENTARY INFORMATION: The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom has, in accordance with existing provisions of a bilateral agreement, notified the FAA of an unsafe condition that may exist on certain BAe Model 146 airplanes.

Several incidents have been reported of fuel leaking from the wing center fuel tank into the passenger cabin as a result of inadequate sealing of the tank. This situation has the potential to become a fire hazard.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, telegraphic AD T85-05-51 was issued March 15, 1985, which requires inspection to detect fuel leaking into the passenger cabin; cleaning, as necessary; and limiting the fule carried in the center tank to 2,000 pounds if no leaks are detected, and zero fuel if leaks are detected. Based on further investigation by the CAA, AD T88-05-01 was revised March 22, 1985, further limiting the amount of fuel carried in the center tank to zero for all airplanes until British Aerospace Modification HCM00650A has been incorporated.

Since a situation existed, and still exists, that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and contrary to public interest, and good cause exists to make the amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required).

List of Subjects in CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 40 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.89; 49 CFR 1.47.

2. By adding the following new airworthiness directive:

British Aerospace: Applies to all Model BAe 146 airplanes certificated in all categories on which Modification HCM00650A has not been accomplished. Compliance is required before further flight after the effectice date of this airworthiness directive (AD). To prevent fuel leaks into the passenger cabin and prevent potential fire, accomplish the following, unless previously accomplished:

A. Before further flight:

1. Drain Center fuel tank, and

2. Incorporate the following information into the airplane flight manual and provide to flight crews: DO NOT DISPATCH WITH FUEL IN THE CENTER TANK.

B. Within 48 hours after the effective date of this AD, modify the airplane in accordance with BAe 146 Alert Service Bulletin 28-A3.

Revision 2, dated March 25, 1985, paragraph 2A.

C. Incorporation of British Aerospace Modification HCM00650A terminates the requirement to comply with paragraph A. and B., above, of this directive.

D. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note.—Compliance with Paragraph A.2. of this directive may be effected by including a copy of the AD in the airplane flight manual and operating manual.

This amendment becomes effective June 24, 1985. It was effective earlier to all recipients of telegraphic AD 85-05-51 R1, issued March 22, 1985, which contained this amendment.

All persons affected by this proposal who have not already received these documents from the manufacturer may obtain copies upon request to British Aerospace, Librarian for Service Bulletin, Box 17414, Dulles International Airport, Washington, D.C. 20041. These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on May 28, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85-13242 Filed 6-3-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 85-AWA-28]

Designation and Alteration of Airways; Washington

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The Government of Canada has requested Federal Airway V-495 be extended from Victoria, BC, Canada, to Abbotsford, BC, Canada, via Bellingham, WA; and to designate new low frequency airway Amber 16 between White Rock, BC, Canada, and Active Pass, BC, Canada. These airways are in support of the Vancouver, BC, Canada's Area Control Center Flow Management Programs and which improves the flow of traffic in that area.

DATE: Effective date—0901 GMT, August 1, 1985.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8626.

SUPPLEMENTARY INFORMATION:

The Rule

The purpose of this amendment to § 71.105 and § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to permit the Government of Canada to extend V-495 from Victoria, BC, Canada, to Abbotsford, BC, Canada, and designate new low frequency airway A-16 between White Rock, BC, Canada, and Active Pass, BC, Canada. This action was initiated by the Government of Canada to enhance the flow of traffic in and around the Vancouver, BC, area, and affects only a small segment of United States airspace. Airways V-495 and Amber 16 (A-16) have been flight checked and approved for operations. This action supports the Government of Canada's programs to improve the flow of traffic in that area. Sections 71.105 and 71.123 of Part 71 of the Federal Aviation Regulations were republished in Handbook 7400.6A dated January 2, 1985.

Under the circumstances presented, the FAA concludes that an action by the Government of Canada to extend V-495 from Victoria, BC, Canada, to Abbotsford, BC, Canada, and designate new airway A-16 between White Rock, BC, Canada, and Active Pass, BC, Canada, with only a 17-mile segment within the United States, is a minor, technical matter in which the public is not particularly interested. Therefore, I find that notice or public procedure under 5 U.S.C. 553(b) is unnecessary.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

VOR Federal airways, Colored airways.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

1. The authority citation for Part 71 is revised to read as follows:

Authority: 49 U.S.C. 1348(a) and 1354(a); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.69; and 49 CFR 1.47.

2. Section 71.105 is amended as follows:

A-16 [New]

From White Rock, BC, NDB, Canada, to Active Pass, BC, NDB, Canada. The airspace within Canada is excluded.

3. § 71.123 is amended as follows:

V-495 [Amended]

By removing the words "From Victoria, BC, Canada," and substituting the words "From Abbotsford, BC, NDB, Canada, via Bellingham, WA; Victoria, BC, Canada;"

Issued in Washington, D.C., on May 28, 1985.

James Burns, Jr.,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 85-13247 Filed 6-3-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 84-AWA-29]

Establishment of VOR Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes three Federal Airways: V-549, V-551 and V-553. The new airways are established in controlled airspace where there were frequent requests made to air traffic control for direct routings between navigational aids.

EFFECTIVE DATE: 0901 GMT, August 1, 1985.

FOR FURTHER INFORMATION CONTACT: Gene Falsetti, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On December 10, 1984, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish three VOR Federal Airways, V–549, V–551 and V–553 (49 FR 48054). The proposal was based on recommendations of airspace users. The new airways were proposed to be established where there were frequent requests for direct routings.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. One comment was received from the Air Force objecting to the establishment of V–551 and V–553. The objection was that the two airways would encourage the use of airspace associated with the Ada East and Ada West Military Operations Areas (MOAs). The Air Force stated that establishment of airways through MOAs aggravates a longstanding problem of priority use of MOAs. The Air Force explained that it is essential that MOA operations not be restricted or denied to allow airway traffic to transit a MOA. Denials result in ineffective or cancelled training which wastes DOD manpower and fiscal resources. From the point of view of civil operators, if IFR aircraft are denied airway clearance, DOD is viewed as interfering with the orderly flow of traffic. The Air Force also stated that the publication of airways through MOAs encourages civil VFR pilots to fly through active MOAs, a practice which is legal but which the Air Force would like to minimize.

The following is the FAA analysis and findings regarding the Air Force objection. The altitude of the MOA is 7,000 feet MSL and above. The annotated data on the aeronautical charts indicate that it will be used during the day on Monday through Friday with occasional use on Saturday and Sunday.

A review of the Ada East and Ada West traffic data revealed that the MOAs were used a total of 323 times during 1984. The average time of use was between one and two hours per flight. These sorties are normally flown between 1500–1600 and 2000–2200 GMT.

Preliminary data from FAA's Flight Inspection Field Office (FIFO) indicates that the minimum en route altitude along the three airways would be between 3,300 and 3,900 feet.

Based on the data presented, the airways to which the Air Force objects, V–551 and V–553, can be used at all times, including times when the MOA is "hot" at cardinal altitudes of 4,000, 5,000 and 6,000 feet. The airways could also be used anytime that the military is not scheduled to use the areas. The military used the MOAs a maximum of 646 hours during 1984. This would have allowed public use of the airspace/airways approximately 93 percent of the available time without adversely affecting the military's mission. For the above reasons, the FAA finds that a significant operational advantage can be gained by establishment of V–551 and V–553.

The issue of "priority use" of MOAs is a policy level issue more appropriate as a candidate for review in FAA's National Review of Special Use Airspace (SUA). The objectives of this national review are to examine policies, management, use and effectiveness of SUA. Accordingly, a general dialogue on this issue is outside the scope of the airspace docket.

Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations establishes three new Federal Airways as follows: V–540 is established between Hays and Mankato, KS, VORTACs; V–551 between the Salina and Mankato, KS, VORTACs; and V–553 between the Salina, KS, and Pawnee City, NE, VORTACs.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

VOR Federal airways.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

1. The authority citation for Part 71 is revised to read as follows:

Authority: 49 U.S.C. 1348(a) and 1354(a); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); 14 CFR 11.69; and 49 CFR 1.47.

2. § 71.123 is amended as follows:

V–549 [New]

From Hays, KS; to Mankato, KS.

V–551 [New]

From Salina, KS; to Mankato, KS.

V–553 [New]

From Salina, KS; to Pawnee City, NE.

Issued in Washington, D.C. on May 28, 1985.

James Burns, Jr.,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 85–13248 Filed 6–3–85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 84–AGL–12]

Realignment of VOR Federal Airway V-12; Ohio

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revokes V-12N between Appleton and Dayton, OH. The airway is no longer used as an arrival route to Dayton, OH, and is seldom filed by pilots. Revocation also helps to simplify the route structure.

EFFECTIVE DATE: 0901 G.M.T., August 1, 1985.

FOR FURTHER INFORMATION CONTACT: Gene Falsetti, Airspace and Air Traffic Rules Branch (ATO–230), Airspace—Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8783.

SUPPLEMENTARY INFORMATION:

History

On March 19, 1985, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revoke V–12N between Appleton and Dayton, OH (50 FR 10979). The airway is no longer used as an arrival route to Dayton, OH, and is seldom filed by pilots. If filed, it is necessary to reclear aircraft to conform to existing arrival/departure flows. Interested parties were invited to participate in this rulemaking proceeding by submitting written

comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations revokes V-12N between Appleton and Dayton, OH. The action is taken in the interest of airspace efficiency and is consistent with FAA's agreement with the International Civil Aviation Organization (ICAO) to eliminate all alternate airway designations from the National Airspace System.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

VOR Federal Airways.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

1. The authority citation for Part 71 is revised to read as follows:

Authority: 49 U.S.C. 1348(a) and 1354(a); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.69; and 49 CFR 1.47.

2. § 71.123 is amended as follows:

V-12 [Amended]

By removing the words "including a N alternate from Dayton to Appleton via INT Dayton 068° and Rosewood, OH 083° radials;"

Issued in Washington, D.C., on May 28, 1985.

James Burns, Jr.,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 85-13245 Filed 6-3-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 85-AGL-6]

Alteration of Transition Area; Litchfield, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action alters the Litchfield, Illinois, transition area to provide airspace necessary to accomodate existing conditions.

The intended effect of this action is to ensure segregation of aircraft using approach procedures in instrument weather conditions from other aircraft operating under visual weather conditions in controlled airspace.

EFFECTIVE DATE: 0901 G.M.T. August 1, 1985.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, Federal Aviation Administration, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

History

On Friday, March 8, 1985, the Federal Aviation Administration (FAA) proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Litchfield, Illinois, transition area (49 FR 9453). Runway 27 was inadvertently referenced in lieu of Runway 09, but the affected airspace area as described remains unchanged.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 2, 1985.

The rule

This amendment to Part 71 of the Federal Aviation Regulations alters the Litchfield, Illinois, transition area to provide airspace necessary to accommodate the existing Litchfield NDB RWY 9 standard instrument approach procedure.

FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects In 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

Litchfield, IL

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Litchfield, Illinois, Municipal Airport (latitude 39°09'50"N, longitude 89°40'36"W), and within 3 miles each side of the 079° bearing from the Litchfield NDB (LTD), extending from the 5-mile radius to 8 miles east of the Litchfield Airport, and within 3 miles each side of the 274° bearing from the Litchfield NDB (LTD), extending from the 5-mile radius to 8 miles west of the Litchfield Municipal Airport.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a) (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.69.)

Issued in Des Plaines, Illinois, on May 16, 1985.

Paul K. Bohr,

Director, Great Lakes Region.

[FR Doc. 85-13243 Filed 6-3-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 85-ACE-04]

Designation of Transition Area, Sibley, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to designate a 700-foot transition area at Sibley, Iowa, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Sibley Municipal Airport, Sibley, Iowa, utilizing the Sibley Non-Directional Radio Beacon (NDB) as a navigational aid. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). This action will change the airport status from VFR to IFR.

EFFECTIVE DATE: August 1, 1985.

FOR FURTHER INFORIJATION CONTACT: Lewis G. Earp, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-540, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408

SUPPLEMENTARY INFORMATION: To enhance airport usage, a new instrument approach procedure is being developed for the Sibley Municipal Airport, Sibley, Iowa, utilizing the Sibley NDB as a navigational aid. The establishment of an instrument approach procedure based on this approach aid entails designation of transition area at Sibley, Iowa, at or above 700 feet above the ground within which aircraft are provided air traffic control service. Transition areas are designed to contain IFR operations in controlled airspace during portions of the terminal operation and while transiting between the terminal and enroute environment. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). This action will change the airport status from VFR to IFR. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

Discussion of Comments

On page 13187 of the **Federal Register** dated April 8, 1985, the Federal Aviation Administration published a Notice of Proposed Rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Sibley, Iowa. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) proposes to amend Part 71 of the FAR (14 CFR Part 71) as follows:

1. The authority citation for Part 71 continue to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; E.O. 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); (14 CFR 11.65); 49 CFR 1.47.

2. By amending § 71.181 as follows:

Sibley, Iowa

That airspace extending upward from 700 feet above the surface within a 5 mile radius of the Sibley Municipal Airport (latitude 43°22'30"N, longitude 95°45'15"W) and within 3 miles each side of the Sibley NBD (ISB) (latitude 43°22'05"N, longitude 95°45'08"W) 188° bearing extending from the 5 mile radius to 8.5 miles southwest of the Sibley NDB and within 3 miles each side of the Sibley NDB 334° bearing extending from the 5 mile radius to 8.5 miles northwest of the Sibley NDB, excluding the portion which overlies the Sheldon, Iowa transition area.

Issued in Kansas City, Missouri on May 24, 1985.

William H. Pollard,

Acting Director, Central Region.

[FR Doc. 85-13244 Filed 6-3-85; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

Bureau of the Census

15 CFR Part 30

[Docket No. 40668-5071]

Foreign Trade Statistics; Amendments to the Foreign Trade Statistics Regulations

AGENCY: Bureau of the Census, Commerce.

ACTION: Final rule.

SUMMARY: This rule amends the Foreign Trade Statistics Regulations (FTSR) to incorporate additional Shipper's Export Declaration (SED) data requirements and other changes resulting from the redesign of the SEDs and their continuation sheets. This rule also amends the FTSR to raise the value limit of the present exemption from SED filing requirements from $500 to $1000 except for shipments through the U.S. Postal Service for which the exemption will remain at $500.

EFFECTIVE DATE: June 4, 1985.

FOR FURTHER INFORMATION CONTACT: Barry M. Cohen, Chief, Foreign Trade Division, Bureau of the Census, (301) 763-5342.

SUPPLEMENTARY INFORMATION: The Notice of Proposed Rulemaking, published in the **Federal Register** on December 10, 1984, (48055-48058), proposed amending the FTSR to require three new items of information to be reported on the SED; state of origin, parties to transaction, and containerization; to raise the value limit for the exemption from SED filing requirements; and to reflect the redesign of the SED forms. Because these amendements affected the reporting requirements, interested persons were given 60 days from the date of publication in the **Federal Register** (December 10, 1984 to February 8, 1985) to submit their comments regarding the notice.

The SEDs are the source documents from which the Census Bureau collects and compiles the official export statistics. The revisions are necessary to accommodate the needs of data users and provide for the proper reporting of the required data. The Census Bureau will allow exporters 6 months from the effective date to exhaust supplies of old SEDs.

Discussion of Major Comments

The Census Bureau received 32 comments regarding the proposed amendments to the FTSR. Of these comments, none voiced objections to deleting the instructions from the

reverse side of the SED, or increasing the value limit for the basic exemption from SED filing requirements from $500 to $1000.

Twenty-five of the respondents commented on the proposal to require the reporting of the state of origin of exports. Most of these expressed the opinion that while origin of export data are desirable they should be collected at a geographical level more detailed than state, specifically by 3-digit ZIP Code. The Census Bureau understands the need for more detailed point-of-origin export data. However, in determining the geographical level at which data on the origin of exports should be compiled, the Census Bureau had to consider the need for maintaining the confidentiality of the SED and its contents as provided for under Title 13 of the United States Code. The release of data at the ZIP Code level could disclose confidential information contained on an individual SED. This disclosure would affect adversely the competitive position of U.S exports in foreign markets and undermine the credibility of the Census Bureau's legal mandate to keep statistical reports confidential.

In the box designated for the name and address of the exporter (shipper) a specific location for the ZIP Code will be provided. This assures, without added burden, receipt of the ZIP Code data necessary to let the Census Bureau develop a pilot program using San Diego, California and New Orleans, Louisiana to examine the quality and feasibility of collecting, "Shipper's ZIP Code" data.

The regulation containing the definition of "State of origin and Foreign Trade Zone number" [§ 30.7(t)] is being revised to incorporate comments concerning individual SEDs covering shipments of multistate origin. In these instances exporters should report the state of the commodity of the greatest value or if such information is not known the state in which the commodities are consolidated for export. Furthermore, it will be necessary to report only Foreign Trade Zone number when merchandise is being exported from a U.S. Foreign Trade Zone. The requirement for reporting the state location of the Zone is being dropped as it is redundant. To avoid confusion with other reports, the heading has been retitled "Point (state) of origin or Foreign Trade Zone number."

The comments dealing with the collection of information on transactions between related parties centered on the anticipated difficulty in obtaining such information. We have revised the instructions for preparing the SED to clarify further the requirements for reporting information on transactions between related parties. These requirements tie to the definition of related party transactions used in other Commerce Department questionnaires. While we realize that exporters may experience some initial problems, exporters will benefit from the elimination of a substantial amount of duplicate reporting on other Commerce Department questionnaires.

The comments opposing the reporting of containerization data were based on problems relating to the containerization of goods by the exporting carrier without the knowledge of the exporter or forwarder at the time the SED is prepared and signed. When preparing the SED, the exporter or forwarder should report this information as known at that time. To assure accurate reporting, the exporting carrier will be responsible for making sure this item of information is correct. Those exporters and forwarders participating in the Census Bureau's monthly reporting program should report this information as known to them at the time they submit their reports.

The horizontal SED, Form 7525-V-Alternate (Intermodal), designed primarily for waterborne shipments, allows the simultaneous preparation of commercial and governmental shipping documents via an aligned standard international master.

The vertical SED, Form 7525-V, redesigned to align with an accepted version of the Canadian Customs Invoice, thus the United Nations Layout Key, provides the exporting community with a second choice for the preparation of export documents in a one-run document set. This should ease measurably document preparation and improve the quality of the data reported by assuring the consistency of information appearing on all documents.

The aligning of the SED forms to other shipping documents offers cost savings and reduces the overall reporting burden to shippers. In addition, the increase in value exemption for filing SEDs from $500 to $1000 reduces the respondent reporting burden and more than offsets any increase resulting from the requirement of three additional data items.

Some exporters expressed concerns dealing with the cost of modifying their computer programs that generate the "paper" SEDs. These exporters or agents should consider the Census Bureau's program whereby exporters can report their data electronically and eliminate the need for filing individual SEDs.

To those commentors concerned about the possible disclosure of their data through the publication of the additional data elements, we will make every effort to avoid such problems through a system of prior review and to deal immediately with any cases brought to our attention.

The Census Bureau collects and publishes foreign trade statistics under the legislative authority of Chapter 9 of Title 13 of the United States Code, the Census Act. This authority provides for the exemption from disclosure of the SED, wherever located, unless the Secretary of Commerce determines that such exemption would be contrary to the national interest.

Section 30.91 of the FTSR, which is written pursuant to Title 13, outlines the confidentiality provisions of the SED and its contents.

Even though these legal provisions protect the SED itself as opposed to the publication of statistical data, the Census Bureau has developed procedures for limiting disclosure in the published statistics. Individual cases of disclosure that are brought to the Census Bureau's attention are handled on a case-by-case basis. In such cases, the Census Bureau attempts to work out a mutually satisfactory solution, which does not distort data.

Regulatory Impact Analysis and Information Collection

These amendments do not meet the criteria set forth in section 1(b) of Executive Order 12291. Therefore, no Regulatory Impact Analysis is required. Under the provisions of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354), the General Counsel of the Department of Commerce certified to the Small Business Administration that these amendments will not have a significant economic effect on a substantial number of small entities because the preparation of SEDs is small compared to the total cost of exporting. These amendments are subject to the Paperwork Reduction Act of 1980 (Pub. L. 96-511). There will be a decrease in the reporting burden resulting from raising the value exemption for SED filing that more than offsets any increase from the requirement that three additional items of data be reported on the SEDs. The collection of this information has been approved by the Office of Management and Budget under control numbers 0607-0001, 0607-0018, 0607-0150, and 0607-0152.

This Final Rule is being made effective immediately because it raises the value limit for the exemption from SED requirements from $500 to $1000.

List of Subjects in 15 CFR Part 30

Census Bureau, Economic statistics, Foreign trade, and Reporting and recordkeeping requirements.

Amendments to the Regulations

The Foreign Trade Statistics Regulations (15 CFR, Part 30) are amended as set forth below.

PART 30—FOREIGN TRADE STATISTICS

1. The authority citation for 15 CFR Part 30 continues to read as follows:

Authority: Secs. 30.1 to 30.95 issued under R.S. 161; (5 U.S.C. 301); Reorganization Plan No. 5 of 1950, 15 FR 3174, 64 Stat. 1263; Department of Commerce Order No. 85, June 21, 1962, 27 FR 6397. Interpret or apply 76 Stat. 951, 77A Stat. (13 U.S.C. 301–307; 19 U.S.C. 1202, 1484(e)), unless otherwise noted.

1a. Section 30.3 is amended by revising the fourth sentence of paragraph (b) to read as follows:

§ 30.3 Shipper's Export Declaration forms.

* * * * *

(b) * * * Privately printed Shipper's Export Declaration forms must conform strictly to the respective official form in size, wording, color, quality (weight of paper stock), and arrangement, including the Office of Management and Budget Approval Number printed in the upper-right hand corner of the face of form. * * *

2. Section 30.7 is amended by revising paragraph (a), the heading for (d), paragraph (d)(2), the heading for (i), paragraph (i) introductory text and (1), the first sentence of (i)(2), and the first sentence of (q)(1); removing paragraphs (1)(2) and (1)(3) and redesignating (l)(1) as (l) as set out below; and adding paragraphs (t), (u), and (v) to read as follows:

§ 30.7 Information required on Shipper's Export Declarations.

* * * * *

(a) *Port of export.* The name of the U.S. Customs port of exportation shall be entered in terms of Schedule D, *Classification of Customs Districts and Ports.* (See § 30.20(c) for definition of port of exportation.) For shipments by mail, the name of the Post Office where the package is mailed shall be inserted in the space for U.S. port of export.

* * * * *

(d) *Name of exporter and exporter's Employer Identification Number.*

(1) * * *

(2) *Exporter's Employer Identification Number.* Exporters (or their agents shall report the exporter's Internal Revenue Service Employer Identification Number (EIN). If no internal Revenue Service EIN has been assigned, the exporter's Social Security Number (SSN), preceded by the symbol "SS," should be reported. The exporter's SSN shall be reported if, and only if, no Internal Revenue EIN has been assigned to the exporter. If neither an Internal Revenue Service EIN nor an SSN has been assigned, for example, in case of a foreign entity as the exporter, the EIN or SSN reporting requirement does not apply.

* * * * *

(i) *Country of destination.* Country of destination shall be reported on the Shipper's Export Declaration in terms of the names designated in Schedule C–E, *Classification of Country and Territory Designations for U.S. Export Statistics,* as follows:

(1) For shipments under validated export licenses, the country of ultimate destination shown on the export decaration shall conform to the country of ultimate destination as shown on the license.

(2) For shipments not moving under validated export license, the country of ultimate destination as known to the exporter at the time or exportation shall be shown on the export declaration.

* * *

* * * * *

(l) *Description of commodities and Schedule B number.* The correct commodity number as provided in Schedule B, *Statistical Classification of Domestic and Foreign Commodities Exported from the United States,* shall be entered in the space provided on the Shipper's Export Declaration form, and a description of the merchandise shall be supplied in the "Description of Commodities" column in sufficient detail to permit the verification of the Schedule B commodity number. The name of the commodity, in terms which can be identified or associated with the language used in Schedule B (usually the commercial name of the commodity), and any and all characteristics of the commodity which distinguish it from commodities of the same name covered by other Schedule B classifications shall be clearly and fully stated. Careful reference to the Schedule B classification scheme for related commodities as well as for the commodity being shipped is necessary in order to establish which particular characteristics must be stated in the description to permit verification of the correct Schedule B commodity number and to eliminate any question that some other commodity number might apply. A description of commodities in the kind of detail specified above is a separate requirement, and the furnishing of the correct Schedule B commodity number does not relieve the exporter of furnishing, in addition, a complete and accurate commodity description in accordance with this requirement. If the shipment is moving under a validated license, the description shown on the export declaration shall conform with that shown on the validated export license. However, where the description on the license does not state all of the characteristics of the commodity which are needed to completely verify the commodity number, as described above, the missing characteristics, as well as the description shown on the license, shall be stated in the commodity description on the Shipper's Export Declaration.

* * * * *

(q) *Value.* (1) In general, the value to be reported on the Shipper's Export Declaration shall be the value at U.S. port of export (selling price or cost if not sold, including inland freight, insurance, and other charges to U.S. port of export) (nearest whole dollar; omit cents figures). * * *

* * * * *

(t) *Point (state) of origin or Foreign Trade Zone number.* (Not required for in-transit merchandise documented on Form 7513.)

(1) The state in which the merchandise actually begins its movement in international trade; that is, the state in which the merchandise actually starts its journey to the port of export. For example, a Shipper's Export Declaration covering merchandise laden aboard a truck at a warehouse in Georgia for transport to Florida for loading onto a vessel for export to a foreign country shall show Georgia as the state of origin. This may not be the state where the merchandise was produced, mined, or grown, or necessarily the state where the exporter is located. The state designation to be shown shall be the U.S. Postal Service's standard two-letter state abbreviation.

(2) For shipments of multistate origin, reported on a single SED, report state of the commodity of the greatest value or, if such information is not known at the time of export, the state in which the commodities are consolidated for export.

(3) For merchandise exported from a U.S. Foreign Trade Zone, the letters "FTZ" followed by the Foreign Trade Zone number shall be reported.

(u) *Containerized.* (Not required for in-transit merchandise documented on Form 7513.) This information is required to be shown for vessel shipments only. A containerized shipment is one transported in any size van-type

container such as 8' x 8' x 20' or 8' x 8' x 40'. Cargo originally booked as *containerized cargo* as well as that placed in containers at the vessel operator's option shall be included.

(v) *Parties to transaction.* (Not required for in-transit merchandise documented on Form 7513.) An export between related parties is one

(1) From a U.S. person (U.S. exporter) to a foreign business enterprise (foreign consignee) in which at anytime during the fiscal year, the U.S. person owned or controlled, directly or indirectly, 10 percent or more of the voting securities of the foreign enterprise, if an incorporated business enterprise; or an equivalent interest, if an unincorporated business enterprise, including a branch; or

(2) From a U.S. business enterprise (U.S. exporter) to a foreign person (foreign consignee) that, at anytime during the fiscal year, owned or controlled, directly or indirectly, 10 percent or more of the voting securities of the U.S. business enterprise, if an incorporated business enterprise; or an equivalent interest if an unincorporated business enterprise, including a branch.

3. Section 30.9 is amended by revising the sixth sentence to read as follows:

§ 30.9 Requirements for separation and alignment of items on Shipper's Export Declaration.

* * * If the exporter desires to record the imported components separately on the export declaration for purposes of indentification with a temporary import bond, a notation may be made in the "Description of Commodities" column as to the imported components that have been incorporated in the exported commodity. * * *

4. Section 30.10 is amended by revising the last sentence to read as follows:

§ 30.10 Continuation sheets for Shipper's Export Declaration.

* * * The following statement with the blank filled in as appropriate shall be inserted on the last line of the description column of the Shipper's Export Declaration itself:

"This declaration consists of this sheet and No. ——— continuation sheets."

5. Section 30.22 is amended by revising paragraph (b) to read as follows:

§ 30.22 Requirements for the filing of Shipper's Export Declarations by departing carriers.

(a) * * *

(b) The exporting carrier shall be responsible for the accuracy of the following items of information (where required) on the declaration: Name of carrier (including flag, if vessel carrier), foreign port of unloading, bill of lading or air waybill number, and whether or not containerized.

* * * * *

6. Section 30.55 is amended by revising paragraph (h) to read as follows:

§ 30.55 Miscellaneous exemptions.

* * * * *

(h) Shipments (except shipments requiring a validated export license, and excluding shipments through the U.S. Postal Service) between the United States and Puerto Rico, to the Virgin Islands of the United States, and to all countries except countries prohibited by the Export Administration Regulations of the Office of Export Administration (15 CFR Parts 368–399), * where the value of the commodities classified under a single Schedule B number and shipped on the same exporting carrier from one exporter to one importer is $1000 or under: *Provided however,* that this exemption shall be conditioned upon the filing of such reports as the Bureau of the Census shall periodically require to compile statistics on $1000-and-under shipments.

* * * * *

(Title 13, United States Code, sec. 301–307; and Title 5, United States Code, sec. 301; Reorganization Plan No. 5 of 1950, Department of Commerce Organization Order No. 35–2A, August 4, 1975, 40 FR 42765)

John G. Keane,

Director, Bureau of the Census.

I Concur:

J.M. Walker, Jr.,

Assistant Secretary, Department of the Treasury.

May 1, 1985.

[FR Doc. 85–13044 Filed 6–03–85; 8:45 am]

BILLING CODE 3510-07-M

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15 CFR Part 50

[Docket No. 50470–5070]

Fee Structure for Age Search and Citizenship Information

AGENCY: Bureau of the Census, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of the Census is hereby amending Title 15, Code of Federal Regulations, Chapter 1 § 50.5, fee structure for age search and citizenship information to increase the fee for an age search from $12.00 to $15.00. This change is being made to recover the increase in cost to process a request. Title 13, United States Code, requires recovery of the costs. No transcript of any record will be furnished which would violate statutes requiring that information furnished to the Bureau of the Census be held confidential and not used to the detriment of the person to whom it relates.

EFFECTIVE DATE: October 1, 1985.

FOR FURTHER INFORMATION CONTACT: Francis N. Allai, Bureau of the Census, Pittsburg, Kansas 06762 (316) 231–7100.

SUPPLEMENTARY INFORMATION: This is not a major rule within the meaning of Section 1 of the Executive Order 12291. It will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In accordance with the rulemaking provisions of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), it has been determined that notice and opportunity to comment on this schedule of fees are unnecessary because this is a minor rule, making a technical amendment to adjust the agency's fee structure to recover the actual cost for searching the records and furnishing information therefrom. The actual or estimated cost recovery is required by 13 U.S.C. 8(a). This cost increase is minimal, reflecting the actual increased costs for searching and furnishing the information, and funds for this purpose are not available from any other source. Requests for searches should be directed to the Bureau of the Census, Pittsburg, Kansas 06762.

Since notice and opportunity to comment are not required by the APA or any other law, this rule is not a "rule" within the meaning of the Regulatory Flexibility Act and neither an initial nor final regulatory flexibility analysis will be prepared.

Accordingly, the Department's General Counsel has determined and so certified to the Office of Management and Budget that dispensing with notice and opportunity for comment is consistent with the APA and other relevant law.

This rule does not impose an information collection requirement for purposes of the Paperwork Reduction Act.

The legal authority is Title 13, United States Code.

List of Subjects in 15 CFR Part 50

Census data.

1. The authority citation for 15 CFR Part 50 continues to read as follows:

Authority: Sec. 3 49 Stat. 293, as amnended; 15 U.S.C. 192a. Interprets or applies sec. 1, 40 Stat. 1256, as amended, sec. 1, 49 Stat. 292, sec. 8, 60 Stat. 1013, as amended, 15 U.S.C. 192, 189a, 13 U.S.C. 8, unless otherwise noted.

PART 50—[AMENDED]

2. 15 CFR Part 50 is amended by revising § 50.5 to read as follows:

§ 50.5 Fee structure for age search and citizenship information.

Type of service	Fee
Searches of not more than two censuses for one person and one transcript of the more appropriate record	$15
Each additional copy of census transcript	2
Each full schedule (entire household) requested	4

NOTE.—The $4.00 for each full schedule requested is in addition to the fee increase to $15.00.

Dated: April 30, 1985.

John G. Keane,

Director, Bureau of the Census.

[FR Doc. 85-13045 Filed 6-3-85; 8:45 am]

BILLING CODE 3510-07-M

International Trade Administration

15 CFR Parts 370, 372 and 399

[Docket No. 50463-5063]

Clarifications to the Export Administration Regulations

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: This rule, which neither expands nor limits the provisions of the Export Administration Regulations, makes three clarifications to export policy.

(1) "Southern Rhodesia" is removed from the country group listings because that country designation is outdated, and "Outer Mongolia" is revised to read "Mongolian People's Republic", the proper designation for that country.

(2) Exporters are asked to include with their export license application two additional copies of the technical specifications of the commodities they wish to export.

(3) A listing of the commodities under Department of Commerce export controls is amended by inserting two paragraphs inadvertently omitted when the listing was revised from a column format to a paragraph format (47 FR 58121-58194, December 29, 1982).

EFFECTIVE DATE: June 4, 1985.

FOR FURTHER INFORMATION CONTACT: Betty A. Ferrell, Exporter Assistance Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230 (Telephone: (202) 377-3856).

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

In connection with various rulemaking requirements, the Office of Export Administration has determined that:

1. Since this regulation invokes a foreign affairs function of the United States, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date are inapplicable.

2. This rule contains no new information collection requirement under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The existing application requirement referenced in this rule has been approved by the Office of Management and Budget under approval number 0625-0001.

3. Because a notice of proposed rulemaking is not required to be published for this rule, it is not a rule within the meaning of section 601(2) of the Regulatory Flexibility Act, 5 U.S.C., and is not subject to the requirements of that Act. Accordingly, no initial or final Regulatory Flexibility Analysis has been or will be prepared.

4. Because this rule concerns a foreign affairs functions of the United States, it is not a rule or regulation within the meaning of section 1(a) of Executive Order 12291 and, accordingly, is not subject to the requirements of that Order. Accordingly, no preliminary or final Regulatory Impact Analysis has been or will be prepared.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

List of Subjects in 15 CFR Parts 370, 372 and 399

Administrative practice and procedure, Exports.

Accordingly, the Export Administration regulations (15 CFR Parts 370, 372 and 399 are amended as follows:

PART 370—[AMENDED]

1. The authority citation for 15 CFR Part 370 is revised to read as follows:

Authority: Secs. 203, 206, Pub. L. 95-223, Title II, 91 Stat. 1626, 1628 (50 U.S.C. 1702, 1704), E.O. No. 12470 of March 30, 1984 (49 FR 13099, April 3, 1984); Presidential Notice of March 28, 1985 (50 FR 12513, March 29, 1985).

2. Supplement No. 1 to Part 370, "Country Groups", is amended by removing "Southern Rhodesia" from Country Group V, and by revising "Outer Mongolia" in Country Group Y to read "Mongolian People's Republic."

PART 372—[AMENDED]

3. The authority citation for 15 CFR Part 372 is revised to read as follows:

Authority: Secs. 203, 206, Pub. L. 95-223, Title II, 91 Stat. 1626, 1628 (50 U.S.C. 1702, 1704), E.O. No. 12470 of March 30, 1984 (49 FR 13099, April 3, 1984); Presidential Notice of March 28, 1985 (50 FR 12513, March 29, 1985).

4. Supplement No. 1 to Part 372, "Instructions for preparing an application for a validated license", is amended by adding the following two sentences to the end of Item 9(b):

(You should include an original and two copies of your technical specifications on applications for exports to Country Groups Q, W and Y, and the People's Republic of China. The additional copies will be sent to other Government agencies reviewing the transaction and will assist in speeding the licensing determination).

PART 399—[AMENDED]

5. The authority citation for 15 CFR Part 399 is revised to read as follows:

Authority: Secs. 203, 206, Pub. L. 95-223, Title II, 91 Stat. 1626, 1628 (50 U.S.C. 1702, 1704), E.O. No. 12470 of March 30, 1984 (49 FR 13099, April 3, 1984); Presidential Notice of March 28, 1985 (50 FR 12513, March 29, 1985).

4. In Commodity Group 3, General Industrial Equipment, of supplement No. 1 to section 399.1 (the Commodity Control List), ECCN 2317A is amended by inserting a *Validated License Required* paragraph between the *Unit* paragraph and the *GLV $ Value Limit* paragraph reading—

"*Validated License Required:* Country Groups QSTVWYZ."

5. In Commodity Group 9, Miscellaneous, of Supplement No. 1 to § 399.1 (the Commodity Control List), ECCN 5998B is amended by inserting a *Validated License Required* paragraph between the *Unit* paragraph and the *GLV $ Value Limit* paragraph, reading—"*Validated License Required:* Country Groups QSTVWYZ".

Dated: April 24, 1985.

John K. Boidock,

Director, Office of Export Administration, International Trade Administration.

[FR Doc. 85-12907 Filed 6-3-85; 8:45 am]

BILLING CODE 3510-DT-M

15 CFR Part 399

[Docket No. 50454-5054]

Synthetic Organic Agricultural Chemicals; Amendment to the Commodity Control List

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Interim rule with request for comments.

SUMMARY: This rule removes national security controls on two synthetic organic agricultural chemicals. The Department of Commerce, in consultation with the Department of Defense, has determined that such controls are no longer necessary. These chemicals are removed from entry 4707B of the Commodity Control List and are added to entry 6799G. As a result, a validated license now is required to export these chemicals to country Groups S and Z only.

EFFECTIVE DATE: June 4, 1985. Comments must be received by the Department by August 5, 1985.

ADDRESS: Written comments (six copies) should be sent to: Betty Ferrell, Exporter Assistance Division, Office of Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: Larry Hanrahan, Exporter Assistance Division (Telephone: (202) 377-3856).

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements and Invitation To Comment

In connection with various rulemaking requirements, the Office of Export Administration has determined that:

1. The provisions of the Administrative Procedure Act requiring notice of proposed rulemaking, an opportunity for public participation, and a delay in effective date (5 U.S.C. 553) are inapplicable because this regulation involves a foreign affairs function of the United States. However, because of the importance of the issues raised by these regulations, this rule is issued in interim form and comments will be considered in developing final regulations. Accordingly, interested persons who desire to comment are encourage to do so at the earliest possible time to permit the fullest consideration of their views.

2. This rule reduces the burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* by eliminating the requirement for a validated license under certain circumstances. The collection of this information has been approved by the Office of Management and Budget under control number 0625-0001.

3. Because a notice of proposed rulemaking is not required for this rule, it is not a rule within the meaning of section 601(2) of the Regulatory Flexibility Act, 5 U.S.C. 601(2) and is not subject to the requirements of the Act. Accordingly, no initial or final Regulatory Flexibility Analysis has been or will be prepared.

4. Because this rule concerns a foreign affairs function of the United States, it is not a rule or regulation within the meaning of section 1(a) of Executive Order 12291 and, accordingly, is not subject to the requirements of the order. Accordingly, no preliminary or final Regulatory Impact Analysis has been or will be prepared.

The period for submission of comments will close August 5, 1985. All comments received before the close of the comment period will be considered by the Department in the development of final regulations. While comments received after the end of the comment period will be considered if possible, their consideration cannot be assured. Public comments that are accompanied by a request that part of all of the materials be treated confidentially because of its business proprietary nature or for any other reason will not be accepted. Such comments and material will be returned to the submitter and will not be considered in the development of final regulations.

All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, comments in written form are preferred. If oral comments are received they must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspecton.

The public record concerning these regulations will be maintained in the International Trade Administration Freedom of Information Records Inspection Facility, Room 4102 U.S. Department of Commerce, 14th Street and Pennsylvania Avenue NW., Washington, D.C. 20230.

Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Patricia L. Mann, the International Trade Administration Freedom of Information Officer, at the above address or by calling (202) 377-3031.

List of Subjects in 15 CFR Part 399

Exports.

Accordingly, the Export Administration Regulations (15 CFR Part 399) is amended as follows:

PART 399—[AMENDED]

1. The authority citation for 15 CFR Part 399 is revised to read as follows:

Authority: Secs. 203, 206, Pub. L. 95-223, Title II, 91 Stat. 1626, 1628 (50 U.S.C. 1702, 1704), E.O. No. 12470 of March 30, 1984 (49 FR 13099, April 3, 1984); Presidential Notice of March 28, 1985 (50 FR 12513 March 29, 1985).

2. In Commodity Group 7, Chemicals, Metalloids, Petroleum Products and Related Materials, of the Commodity Control List (Supplement No. 1 to § 399.1), ECCN 4707B is amended by revising paragraph (b)(1) of the "List of Chemicals. . ." to read as follows: 4707B (a) Chemicals, as described in this entry; (b) Synthetic organic agricultural chemicals, as described in this entry.

* * * * *

(b) * * *

(1) Alkyl aryl carbamates (including isopropyl N-phenyl-carbamate and isopropyl N-(3-chlorophenyl) carbamate), except 2, 2-dimethyl 1, 3-benzodioxol-4-ol methylcarbamate and 1-naphthyl N-methyl carbamate.

* * * * *

(2) In Interpretation 24, Chemicals, of Supplement No. 1 to § 399.2, under the heading of: "Organic Chemicals", the word "Bendiocarb" is inserted between "Behenic acid" and "Benzaldehyde"; and the word "Carbaryl" is inserted between "N-Carbamoylarsanilic acid" and "Carbazole".

(3) In interpretation 24, Chemicals, of Supplement No. 1 to § 399.2, under the

heading of "chemical preparations and compounds, miscellaneous related materials and products, n.e.s., as follows:" the entry between "Ink thinners for cellophane printing" and "Inulin" is revised to read as follows:

Inorganic and organic insecticides, pesticides, defoliants, herbicides, fumigants, agricultural chemicals and similar products (including 2, 2-dimethyl-1, 3-benzodioxol-4-ol methyl carbamate and 1-naphthyl N-methylcarbamate), n.e.s., *except organic phosphate insecticides and pesticidal compounds containing 75 percent by weight of organic phosphates.*

Dated: April 2, 1985.

John K. Boidock,

Director, Office of Export Administration, International Trade Administration.

[FR Doc. 85-12908 Filed 6-3-85; 8:45 am]

BILLING CODE 3510-DT-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. C-3154]

Young & Rubicam/Zemp, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires a St. Petersburg, Fla. advertising agency, among other things, to cease, in connection with the advertising and sale of the Ecologizer CA/90 Series 2000 Air Treatment, representing falsely through the use of terms such as "eliminates", or by other means, that the portable household air cleaning appliance removes substantially all or most formaldehyde gas and tobacco smoke from the air people breathe under household living conditions. The order also bars the firm from misrepresenting the ability of any such appliance or equipment to clean the air of formaldehyde gas or tobacco smoke; and from representing the performance characteristics of any air cleaning appliance unless it possesses and relies upon competent and reliable substantiating evidence for such claims. Respondent is additionally required to cease failing to maintain written records of both substantiating materials and materials that contradict or qualify performance claims for a period of three years.

DATE: Complaint and Order issued May 10, 1985.[1]

FOR FURTHER INFORMATION CONTACT: Judith Wilkenfeld, FTC/B-411-5, Washington, D.C. 20580. [202] 376-8848.

SUPPLEMENTARY INFORMATION: On Tuesday, Feb. 5, 1985, there was published in the **Federal Register**, 50 FR 4990, a proposed consent agreement with analysis In the Matter of Young & Rubicam/Zemp, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Advertising Falsely or Misleadingly: 13.10 Advertising falsely or misleadingly: 13.10-5 knowingly by advertising agent; 13.170 Qualities or properties of product or service; 13.170-16 Cleaning, purifying; 13.190 Results; 13.205 Scientific or other relevant facts; 13.210 Scientific tests. Subpart—Corrective Actions and/or Requirements; 13.533 Corrective actions and/or requirements; 13.533-45 Maintain records. Subpart—Disseminating Advertisements, Etc.: 13.1043 Disseminating advertisements, etc. Subpart—Misrepresenting Oneself and Goods—Goods: 13.1710 Qualities or properties; 13.1730 Results; 13.1740 Scientific or other relevant facts; 13.1762 Tests, purported. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: 13.1885 Qualities or properties; 13.1895 Scientific or other relevant facts.

List of Subjects in 16 CFR Part 13

Household air cleaning appliances, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Emily H. Rock,

Secretary.

[FR Doc. 85-13374 Filed 6-3-85; 8:45 am]

BILLING CODE 6750-01-M

[1] Copies of the Complaint and the Decision and Order are filed with the original document.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 73

[Docket No. 84C-0135]

Reactive Blue No. 19; Listing as a Color Additive for Use in Contact Lenses; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective date of April 9, 1985, for a regulation listing Reactive Blue No. 19 as a color additive for coloring contact lenses. This action responds to a petition filed by Ciba Vision Care.

EFFECTIVE DATE: April 9, 1985.

FOR FURTHER INFOMRATION CONTACT: Thomas C. Brown, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a final rule published in the Federal Register of March 8, 1985 (50 FR 9424), FDA amended the color additive regulations to provide for the safe use of Reactive Blue No. 19 [2-anthracenesulfonic acid, 1-amino-9,10-dihydro-9,10-dioxo-4[[3-[[2-(sulfooxy)ethyl]sulfonyl]phenyl]-amino]-disodium salt] (CAS Reg. No. 2580-78-1), chemically bonded to the lens polymer, poly(hydroxyethyl methacrylate), to produce tinted contact lenses. The final rule amended § 73.3121 (21 CFR 73.3121) by adding Reactive Blue No. 19 to the list of reactive dyes in paragraph (a).

In the final rule, FDA gave interested persons until April 8, 1985, to file objections. The agency received no objections or requests for a hearing on the final rule. Therefore, FDA has concluded that the final rule published in the Federal Register of March 8, 1985, for Reactive Blue No. 19 should be confirmed.

List of Subjects in 21 CFR Part 73

Color additives, Cosmetics, Drugs, Medical devices.

PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 701(e), 706, 70 Stat. 919 as amended, 74 Stat. 399-407 as amended (21 U.S.C. 371(e), 376)) and under authority delegated to

the Commissioner of Food and Drugs (21 CFR 5.10), notice is given that no objections or requests for a hearing were filed in response to the final rule of March 8, 1985. Accordingly, the final rule amending § 73.3121 to provide for the safe use of Reactive Blue No. 19 in coloring contact lenses became effective April 9, 1985.

Dated: May 23, 1985.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85-13471 Filed 6-3-85; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 888

[Docket No. R-85-1224; FR-2079]

Section 8—Fair Market Rents for New Construction and Substantial Rehabilitation—All Market Areas

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of effective date.

SUMMARY: This document announces the effective date for the interim rule published in the **Federal Register** on April 26, 1985 (50 FR 16612) which amends the section 8 Fair Market Rents applicable to New Construction and Substantial Rehabilitation for all market areas, in compliance with the requirements of section 8(c)(1) of the U.S. Housing Act of 1937. The rule provided for a 30-day public comment period from the date of publication, and the effective date provision of the rule stated that, after the comment due date of May 28, 1985, a notice of the effective date of the rule would be published in the **Federal Register.**

HUD has determined not to make any changes at this time in the Fair Market Rents published on April 26, 1985. Accordingly, all of the Fair Market Rents published in the **Federal Register** on April 26, 1985, will become effective as provided under **"EFFECTIVE DATE,"** below.

However, HUD will carefully evaluate all comments received, whether during or after expiration of the public comment period, to determine whether any further revision of the Fair Market Rent schedules should be made. If this evaluation indicates a need to make any further revision of the Fair Market Rent schedules for particular market areas, HUD will publish a revision of those schedules at a future date.

EFFECTIVE DATE: The effective date for the interim rule published April 26, 1985 at 50 FR 16612 is June 4, 1985.

FOR FURTHER INFORMATION CONTACT: Edward M. Winiarski, Chief, Valuation Branch, Department of Housing and Urban Development, Room 6146, 451 Seventh Street, SW., Washington, D.C. 20410. Telephone: (202) 426-7624. This is not a toll-free number.

Dated: May 29, 1985.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 85-13428 Filed 6-3-85; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 301, and 602

[T.D. 8028]

Information Returns Required by Officers, Directors and Shareholders of Foreign Personal Holding Companies

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the amendments made to the Internal Revenue Code of 1954 by the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) which concern information returns required of officers, directors, and shareholders of foreign personal holding companies. While the changes expanded the number of persons required to file information returns for foreign personal holding companies, they also simplified the reporting requirements with respect to foreign personal holding companies and gave the Secretary the authority to set the return due dates and to waive duplicative filings. TEFRA also provided a new $1,000 civil penalty for failure to file a proper and timely foreign personal holding company information return.

DATES: The amendments are effective July 5, 1985 for taxable years of foreign corporations beginning after September 3, 1982. Taxpayers who are required to file under section 340 of TEFRA and who have compiled information based on the old Forms 957 and 958, which were replaced by Form 5471, may file the old forms instead of Form 5471 for taxable years ending on or before November 30, 1983. (See announcement 83-56, 1983-13 I.R.B. 92.)

FOR FURTHER INFORMATION CONTACT: Marnie J. Carro of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington D.C. 20224, (Attention: CC:LR:T) (202-566-3289, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

On September 6, 1984, the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 6035 and the Regulations on Procedure and Administration (26 CFR Part 301) under section 6679 of the Internal Revenue Code of 1954 (49 FR 35145).

These amendments were proposed to conform the regulations to changes made to sections 6035 and 6679 by Section 340 of TEFRA (96 Stat. 633, 634). A public hearing was neither requested nor held. One public comment was received. After consideration of this comment, the regulations are being published as they appeared in the notice of proposed rulemaking except for minor clarifying changes.

TEFRA simplified the reporting requirements that section 6035 imposes with respect to foreign personal holding companies. Prior to its amendment, section 6035 and the regulations thereunder required U.S. officers and directors of foreign personal holding companies to file two annual returns.

The first information return was filed on Form 957 and concerned the stock structure and identity of the shareholders of the corporation. The second information return was filed on Form 958 and concerned the foreign personal holding company's income and deductions for the taxable year, as well as undistributed foreign personal holding company income. In addition, any U.S. shareholder who had not already filed as a director or officer and who held 50% or more of the corporation's stock was required to file Form 957.

Because the various returns of officers, directors, and 50% shareholders suffered from overlapping coverage, as well as inconveniently staggered filing dates; TEFRA combined the filing requirements and gave the Service flexibility in setting return due date and waiving duplicative filings. Forms 957 and 958 have now been incorporated into Form 5471. TEFRA also expanded its reporting requirements to each United States citizen or resident who is a 10-percent (rather than 50-percent) shareholder of a foreign personal holding company as well as to officers

and directors who are U.S. citizens or residents.

The regulations provide that Form 5471 is to be filed with the income tax return of the person required to file. In addition, the regulations provide that one person may file Form 5471 and the applicable schedules for other persons who have the same filing requirements. A person who does not file Form 5471 because another person has agreed to file the information on his behalf must attach a statement to his return identifying such person and he still remains liable under the penalty provisions if that other person fails to file a proper return.

Information required by the regulations includes corporate, shareholder income information. The required shareholder information includes the names and addresses of all persons who held shares, options, and convertible securities during the taxable year; a description of each class of shares and the total number of shares of each class outstanding at the beginning and end of the taxable year; the number of shares of each class, option, or convertible security held by each person; and any changes in the holdings of shares, options, or convertible securities during the year. Required income information includes the foreign personal holding company's gross income, deductions, credits, taxable income, and undistributed foreign personal holding company income for the year.

In addition to the criminal penalties imposed by existing law for failure to file a return and filing a false or fraudulent return, TEFRA imposed by an amendment under section 6679 a $1,000 civil penalty for failure to file a proper foreign personal holding company information return. This penalty does not apply, however, if the failure is shown to be due to reasonable cause.

Discussion of Comment

Under § 1.6035–1(b)(2)(ii) and (b)(4) as proposed, an individual who does not own 10 percent or more in value of the outstanding stock directly, but is required to file solely by attribution of another United States person's stock ownership, is excused from filing if the direct owner who is an individual furnishes all the information required. The excused filer is required to file a statement with his income tax return indicating that such requirement has been or will be satisfied. In this context, the comment suggested that the regulations exempt from the filing requirements all individuals who directly own no stock of a foreign corporation. The final regulations do not adopt this suggestion because the statute requires that any individual who owns directly or *indirectly* 10 percent or more in value of the outstanding stock of a foreign corporation file a foreign personal holding company information return.

Certification of Nonapplicability of Regulatory Flexibility Act of 1980 and Executive Order 12291

The Secretary of the Treasury has certified that these regulations will not have a significant economic impact on a substantial number of small entities and are, therefore, not subject to the requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. Chapter 6). Accordingly, a Regulatory Flexibility Analysis is not required and has not been prepared. The Commissioner of Internal Revenue has determined that these regulations are not major regulations subject to Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required and has not been prepared.

Paperwork Reduction Act

The collection of information contained in these regulations has been submitted to the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1980. These requirements have been approved by OMB.

Drafting Information

The principal author of these regulations is Marnie J. Carro of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, on matters of both substance and style.

List of Subjects

26 CFR 1.6001–1 Through 1.6109–2

Income taxes, Administration and procedure, Filing requirements.

26 CFR Part 301

Administrative practice and procedure, Bankruptcy, Courts, Crime, Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Investigation, Law enforcement, Penalties, Pensions, Statistics, Taxes, Disclosure of information, Filing requirements.

26 CFR Part 602

OMB control numbers, Paperwork Reduction Act, Reporting and recordkeeping requirements.

Adoption of amendments to the regulations

Accordingly, 26 CFR Part 1, Part 301, and Part 602 are amended as follows:

PART 1—[AMENDED]

Income Tax Regulations

Paragraph 1. The authority for Part 1 continues in part to read:

26 U.S.C. 7805 and 26 U.S.C. 6035 (a), (d), and (e) * * *.

The authority citation for Part 1 is amended by adding:

Sections 1.6035–1 through –3 also issued under 26 U.S.C. 6035 (a), (d), and (e).

Par. 2. Section 1.6035–1 is revised to read as follows:

§ 1.6035–1 Returns of U.S. officers, directors and 10-percent shareholders of foreign personal holding companies for taxable years beginning after September 3, 1982.

(a) *Requirement of returns*—(1) *In general.* For taxable years of a foreign personal holding company beginning after September 3, 1982, each United States citizen or resident who is an officer, director, or 10-percent shareholder of the foreign personal holding company (as defined in section 552) shall file with his income tax return, on or before the date that return is due, Form 5471 and the applicable schedules to be completed in accordance with the instructions setting forth corporate, shareholder, and income information for the foreign personal holding company's annual accounting period that ends with or within the officer's, director's, or shareholder's taxable year.

(2) *General corporate information.* The general foreign personal holding company information required by this section with respect to each taxable year is as follows:

(i) The name and address and employer identification number (if any) of the corporation;

(ii) The kind of business in which the corporation is engaged;

(iii) The date of its incorporation;

(iv) The country under the laws of which the corporation is incorporated;

(iv) A description of each class of stock issued and outstanding by the corporation for the beginning and end of the annual accounting period;

(vi) The number of shares and par value of common stock of the corporation issued and outstanding as of the beginning and end of the taxable year;

(vii) The number of shares and par value of preferred stock of the corporation issued and outstanding as of

the beginning and end of the taxable year, the rate of dividend on such stock and whether such dividend is cumulative or noncumulative; and

(viii) Any other information required by the appropriate form and its instructions.

For purposes of this paragraph, the term "share" includes any security convertible into a share in the corporation and any option granted by the corporation with respect to any share in the corporation.

(3) *Shareholder information.* The shareholder information required by this section is as follows:

(i) The name, address and taxpayer identification number (if any) of each person, whether foreign or U.S., who was a shareholder during the taxable year and the class and number of shares held by each, together with an explanation of any changes in stock holdings during the taxable year,

(ii) The name and address of each holder during the taxable year of securities convertible into stock of the corporation and the class, number, and face value of the securities held by each, together with and explanation of any changes in the holdings of such securities during the taxable year,

(iii) The name and address of each holder during the taxable year of any option granted by the corporation with respect to any share in the corporation, and a full description of the options held by each, together with an explanation of any changes in the holdings of such options during the taxable year, and

(iv) Any other information required by the appropriate form and its instructions.

(4) *Income information.* The income information required by this section is the gross income, deductions and credits, taxable income, foreign personal holding company income, and undistributed foreign personal holding company income for the taxable year and other information required by the appropriate form and its instructions.

(b) *Persons required to file return*—(1) *In general.* The determination of whether a United States citizen or resident is person who is an officer, director, or 10-percent shareholder required to file a return with respect to any foreign corporation is made as of the date that Form 5471 is required to be filed. If there is no such person required to file on that date (because, for example, the corporation has been dissolved), then filing is required of the persons who were officers, directors or 10-percent shareholders on the last day of the most recent taxable year of the corporation for which there was such a person who was a United States citizen or resident.

(2) *10-percent shareholder.* (i) The term "10-percent shareholder" means any individual who owns directly or indirectly (within the meaning of section 544) 10 percent or more in value of the outstanding stock of a foreign corporation.

(ii) An individual who does not own 10 percent or more in value of the outstanding stock directly but is required to file solely by attribution of another United States person's stock ownership is excused from filing if the direct owner that is an individual furnishes all the information required.

(3) *Two or more persons required to submit the same information.* If two or more persons are required to furnish the information for the same foreign personal holding company for the same period, one person may make one return on Form 5471. The single Form 5471 may be filed with the income tax return of any one of the persons and shall disclose the name, address, and identifying number of each other person or persons on whose behalf the return is filed. Each person on whose behalf the return is filed remains liable for any penalties imposed under sections 6679, 7203, 7206, and 7207.

(4) *Statement required.* Any United States citizen or resident required to furnish information under this section with his return who does not do so by reason of the provisions of subparagraph (2)(ii) or (3) of this paragraph shall file a statement with his income tax return indicating that such requirement has been or will be satisfied and identifying the return with which the information was or will be filed and the place of filing.

(c) *Separate returns for each corporation.* If a person is required to file returns under section 6035 and this section with respect to more than one foreign personal holding company, separate returns must be filed with respect to each company.

(d) *Corrective filing.* If an information return with respect to a taxable year of a foreign personal holding company beginning after September 3, 1982, is filed before [date which is 30 days after the date of publication of a Treasury decision in the **Federal Register**] and that return does not contain all of the information required by this section, then the filer of the return shall file an amended information return containing all of such information within 90 days after June 4, 1985.

(e) *Penalties*—(1) *Criminal penalties.* For criminal penalties for failure to file a return and filing a false or fraudulent return, see sections 7203, 7206, and 7207.

(2) *Civil penalties.* For civil penalties for failure to file a proper foreign personal holding company information return, see section 6679 and the regulations thereunder.

Par. 3 Section 1.6035–2 is revised to read as follows:

§ 1.6035–2 Returns of U.S. officers and directors of foreign personal holding companies for taxable years beginning before September 4, 1982.

For rules relating to information returns required to be filed by officers and directors of foreign personal holding companies for taxable years beginning before September 4, 1982, see section 6035(a) (as in effect before the enactment of the Tax Equity and Fiscal Responsibility Act of 1982) and 26 CFR 1.6035–1 (Rev. as of April 1, 1981).

Par. 4 Section 1.6035–3 is revised to read as follows:

§ 1.6035–3 Returns of 50-percent U.S. shareholders of foreign personal holding companies for taxable years beginning before September 4, 1982.

For rules relating to information returns required to be filed by shareholders of foreign personal holding companies for taxable years beginning before September 4, 1982, see section 6035(b) (as in effect before the enactment of the Tax Equity and Fiscal Responsibility Act of 1982) and 26 CFR 1.6035–2 (Rev. as of April 1, 1981).

Par. 5. The authority citation for Part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par. 6. Section 602.101(c) is amended by inserting in the appropriate place in the table "§ 1.6035–1 . . . 1545–0704" "§ 1.6035–2 . . . 1545–0704".

Par. 7. The authority citation for Part 301 continues to read as follows:

Authority: Sec. 7805, I.R.C. 1954; 68A Stat. 917; 26 U.S.C. 7805, unless otherwise noted.

Par. 8. Section 301.6679–1 is amended as follows:

1. The section heading is revised to read as follows: "Failure to file returns, etc. with respect to foreign corporations or foreign partnerships for taxable years beginning after September 3, 1982".

2. Paragraph (a)(1) is revised as set forth below.

3. Paragraph (a)(2) is amended by removing "section 6046 and § 1.6046–1." and adding in its place "section 6035, 6046, or 6046A,".

4. The third sentence of paragraph (a)(3) is amended by removing "section 6046" and adding in its place "section 6035, 6046, or 6046A".

§ 301.6579-1 Failure to file returns, etc. with respect to foreign corporations or foreign partnerships for taxable years beginning after September 3, 1982.

(a) *Civil penalty*—(1) *In general.* In addition to any cirminal penalty provided by law, each United States citizen, resident or person filing a separate or joint information return or on whose behalf a return is filed, pursuant to sections 6035, 6046, or 6046A, and the regulations thereunder, who fails to file such a return within the time provided, or who files a return which does not show the required information, shall pay a penalty of $1,000, unless such failure is shown to be due to reasonable cause.

* * * * *

This Treasury decision is issued under the authority contained in Code sections 6035 (a), (d), and (e) (96 Stat. 633, 26 U.S.C. 6035 (a), (d), and (e)), 6679 (96 Stat. 634; 26 U.S.C. 6679), and 7805 (68A Stat. 917, 26 U.S.C. 7805). Approved by the Office of Management and Budget under control number 1545-0704.

James I. Owens,

Acting Commissioner of Internal Revenue.

Approved: May 20, 1985.

Ronald A. Pearlman,

Assistant Secretary of the Treasury.

[FR Doc. 85-13277 Filed 6-3-85; 8:45 am]

BILLING CODE 4830-01-M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 5, 19, and 252

[T.D. ATF-198; correction]

Implementing the Distilled Spirits Tax Revision Act and Portion of Crude Oil Windfall Profit Tax Act

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Final rule (Treasury decision); correction.

SUMMARY: This document corrects errors made in FR Doc. 85-4200, published in the **Federal Register** on March 1, 1985, at 50 FR 8455, which implemented the Distilled Spirits Tax Revision Act of 1979 and the Crude Oil Windfall Profit Tax Act of 1980.

FOR FURTHER INFORMATION CONTACT: Richard Langford, Distilled Spirits and Tobacco Branch, (202) 566-7531.

SUPPLEMENTARY INFORMATION:

Paragraph 1. In the middle column of page 8464 § 5.42(b)(3)(vi) Prohibited Practices should read:

§ 5.42 Prohibited Practices

* * * * *

(b) * * *

(3) * * *

(vi) Bottles at 100 degrees of proof.

(4) * * *

* * * * *

Paragraph 2. In the left-hand column on page 8470 in the fifth line of § 19.23 "as described" should read "are described".

Paragraph 3. In the left-hand column of page 8472 in § 19.44 in the first sentence remove the word "shall".

Paragraph 4. In the right-hand column of page 8474 in the fifth line of § 19.79 replace the word "spirit" with "spirits".

Paragraph 5. In the right-hand column of page 8477 in the fourth line of § 19.151(a) replace "ony" with "only".

Paragraph 6. In the middle column of page 8481 in the ninth line of § 19.185 replace the word "relected" with reflected".

Paragraph 7. In the left-hand column of page 8482 in § 19.191 in the 11th line replace "§ 19.152(1)(4)" with "§ 19.152(l)(4)".

Paragraph 8. In the middle column of page 8484 in § 19.231 in the fourth line from bottom of column replace "of" with "or".

Paragraph 9. In the chart on page 8486 in chart entry (a)(1)(ii)(B) replace "not over 500,000 proof gallons" with "not over 50,000 proof gallons".

Paragraph 10. In the left-hand column on page 8492 in § 19.333 in the 21st line replace "spitits" with "spirits".

Paragraph 11. In the middle column of page 8502 in § 19.523(b) in the 10th line "§§ 19.523a or 19.524" should read "§§ 19.524 or 19.525".

Paragraph 12. In the middle column of page 8502 in § 19.524(a)(1) in the 13th line the reference to "§ 19.524" should read "§ 19.525".

Paragraph 13. In the right-hand column of page 8502 in § 19.525(b)(3) in the 10th line the reference to "§ 19.524" should read "§ 19.525".

Paragraph 14. In the middle column of page 8506 in § 19.583(b)(3) in the second line replace "andstamps" with "and stamps".

Paragraph 15. In the middle column of page 8507 in § 19.593(c) in the last line replace "with in" with "within".

Paragraph 16. In the right-hand column of page 8510 in the chart in § 19.612 the words "Tare", "Tax Determined", and "Wine Spirits Addition" should be flush with the right margin.

Paragraph 17. In the right-hand column of page 8517 in § 19.736(a)(7) in the second line replace "fuel" with "fusel".

Paragraph 18. In the left-hand column of page 8559 in the Table of Sections remove "252.104a Certificate of Authenticity".

Paragraph 19. In the middle column of page 8562 in § 252.220 in the third line remove "§ 252.119" and replace with "§ 252.219".

Signed: May 24, 1985.

W.T. Drake,

Acting Director.

[FR Doc. 85-13216 Filed 6-3-85; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 281

Land Disposal; Sale of Lands Pursuant to Section 10 of the Act Approved March 1, 1911

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: The regulations at 36 CFR Part 281 were promulgated in 1955 to implement section 10 of the Weeks Act of March 1, 1911 (36 Stat. 961; 16 U.S.C. 480). Section 10 provides for the sale of small areas of land that are chiefly valuable for agriculture which may have been acquired as part of a larger tract for National Forest purposes. Since the regulations were promulgated, the Forest Service has not had a single instance requiring application of these regulations, and there is no foreseeable need for them Therefore, the Agency removes Part 281 from the Code of Federal Regulations.

EFFECTIVE DATE: June 4, 1985.

FOR FURTHER INFORMATION CONTACT: Paul R. Haarala, Lands Staff, (703) 235-2161.

SUPPLEMENTARY INFORMATION: Over 27 million acres were acquired for National Forest purposes under the authority of the Weeks Act. Over 20 million acres acquired prior to 1961 were in poor condition because of excessive timber cutting, fire damage, and erosion form tillage of lands unsuitable for agriculture.

The Agency has found no need for past use of the Weeks Act sale regulations on these acquired lands, and anticipates no future use since current Federal land acquisition programs preclude acquiring lands that are chiefly valuable for agricultural purposes.

A notice of proposed rulemaking to remove Part 281 from the Code of Federal Regulations was published on September 14, 1984, 49 FR 36112. No comments were received.

Removal of Part 281 has been reviewed under relevant USDA procedures, Executive Order 12291, and the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.), and it has been determined that:

(1) This does not constitute a major regulatory action;

(2) No effect on the economy will result from the removal of this regulation;

(3) This action will not have a significant economic impact on a substantial number of small entities;

(4) It does not directly or indirectly result in information collection requirements or requests or impose any paperwork burden; and

(5) It does not affect the environment; therefore, an environmental assessment or impact statement is not required.

List of Subjects in 36 CFR Part 281

Administrative practice and procedure, National forests, Public lands—sales.

PART 281—[REMOVED]

Therefore, Chapter II of Title 36 is hereby amended by removing Part 281—Land Disposal.

Dated: March 26, 1985.

Douglas W. MacCleery,

Deputy Assistant Secretary for Natural Resources and Environment.

[FR Doc. 85-13298 Filed 6-3-85; 8:45 am]

BILLING CODE 3410-11-M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 101

[FPMR Temp. Reg. E-81]

Acquisition of Systems Furniture

AGENCY: Office of Federal Supply and Services, GSA.

ACTION: Temporary regulation.

SUMMARY: This regulation sets forth basic policy concerning the acquisition of systems furniture by Federal executive agencies. Detailed guidance will be issued in a GSA FPMR bulletin to be published by the Office of Federal Supply and Services. The regulation supersedes FPMR Temporary Regulation E-76 and provides for continued monitoring of systems furniture acquisitions by GSA for the purpose of tracking agency demand and evaluating its impact upon procurement and administrative management policy. The information collected will be evaluated and form the basis for determining the most cost effective and economical methods for procuring and employing systems furniture within the Federal Government.

DATES: Effective date: June 4, 1985.

Expiration date: June 30, 1986.

Comments due on or before: October 31, 1985.

ADDRESS: Comments should be addressed to: General Services Administration (FN), Washington, DC 20406.

FOR FURTHER INFORMATION CONTACT: Mr. Dan Rowan, Furniture Commodity Center, Office of Federal Supply and Services (703-557-8473).

SUPPLEMENTARY INFORMATION: GSA has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

(Sec. 205(c) 63 Stat. 390; (40 U.S.C. 486(c)))

In 41 CFR Ch. 101, the following temporary regulation is added to the Appendix to Subchapter E to read as follows:

Federal Property Management Regulations, Temporary Regulation E-81

May 2, 1985.

To: Heads of Federal agencies

Subject: Acquisition of systems furniture

1. *Purpose.* This regulation sets forth basic policy concerning the acquisition of systems furniture.

2. *Effective date.* This regulation is effective upon publication in the **Federal Register.**

3. *Expiration date.* This regulation expires June 30, 1986.

4. *Applicability.* The provisions of this regulation apply to all Federal executive agencies.

5. *Background.* In March of 1982, GSA issued FPMR Temporary Regulation E-76 (hereafter referred to as E-76) which established controls over acquisition of systems furniture by Federal agencies. The controls were designed to ensure that each proposed acquisition is cost effective for the Government based upon comprehensive space and property management planning and cost analysis. Additionally, GSA has been able to gather information concerning agency demand, procurement costs, and procurement methods and practices as well as space savings that can be attributed to systems furniture. Based upon an evaluation of the information, GSA has concluded that systems furniture should continue to be available for agency procurement whenever its proposed application is demonstrated to be cost effective for the Government; and, that changes in the procurement methodology and administrative processes set forth in E-76 are required in the interest of efficiency and economy.

6. *Definition.* For the purposes of this temporary regulation "systems furniture" consists of interconnecting panel assemblies and work surfaces, storage units and other major components which are panel supported.

7. *Basic policy.* GSA contracts for systems furniture, covered under Federal Supply Schedule FSC 71, Part II, Section E, are available for use by executive agencies only when the planned use of the furniture will result in the most efficient and cost effective assignment and/or utilization of Government-controlled office space. Executive agencies are required to obtain procurement authorization from the GSA Office of Federal Supply and Services (FSS) in accordance with this regulation.

8. *Management responsibilities.*

a. The Assistant Administrator for FSS is responsible for providing program direction, authorizing procurements of systems furniture, and promoting maximum competition for Government business. In this connection, FSS shall issue guidance concerning justification requirements, processing of authorization requests, and procurement methodology. The Assistant Administrator may grant a general waiver from the requirement to obtain GSA authorization to any agency, or major subunit thereof, upon demonstration and certification by the agency head that procurement, space and property management programs and controls have been established to ensure compliance with the spirit and intent of this regulation.

b. Agency approving officials are responsible for ensuring that systems furniture projects are fully planned and coordinated, and that forecasted savings are attained. Proposed procurements of $500,000 or more should be approved by the agency head; for less, by an Assistant Secretary, or equivalent level. For the Department of Defense, proposed procurements of less than $500,000 may be approved by the commanding officer of a major claimant

command. These authorities may be redelegated as determined by the agency head. Agencies should notify the Director, Furniture Commodity Center, at the following address: General Services Administration (FN), Washington, DC 20406, of their delegations to avoid delay in processing requests.

9. *Agency comments and assistance.* Comments or inquiries concerning the effect or impact of this regulation should be submitted to the General Services Administration (FN), Washington, DC 20406, not later than October 31, 1985, for consideration and possible incorporation into a permanent regulation. Requests for general information and guidance should also be submitted to the above address.

Dwight Ink,

Acting Administrator of General Services.

[FR Doc. 85-13346 Filed 6-3-85; 8:45 am]

BILLING CODE 6820-24-M

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41 CFR Part 101-8

[FPMR Amdt. A-37]

Nondiscrimination in Federal Financial Assistance Programs

AGENCY: Office of Organization and Personnel, GSA.

ACTION: Final rule.

SUMMARY: This final rule implements the provisions of the Age Discrimination Act of 1975, as amended, and the general, government-wide regulation published in the **Federal Register** on June 12, 1979 (44 CFR 33776), codified at 45 CFR Part 90. The Act prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance. The Act also contains certain exceptions that permit, under limited circumstances, use of age distinctions or factors other than age that may have a disproportionate effect on the basis of age. Notwithstanding these exceptions, the Act applies to persons of all ages. This regulation is designed to guide the actions of recipients of General Services Administration (GSA) Federal financial assistance. The regulation incorporates standards for determining age discrimination as set forth in the 45 CFR Part 90. It discusses the responsibilities of GSA officials, investigation, conciliation, and enforcement procedures GSA will use to ensure compliance with the Act. The proposed rule was published in the **Federal Register** on December 13, 1983 (48 CFR 55485). No comments were received.

EFFECTIVE DATE: June 4, 1985.

FOR FURTHER INFORMATION CONTACT: Grant B. Williams, Jr., Director, Office of Civil Rights, General Services Administration, 18th & F Streets, NW., Washington, D.C. 20405, or Frances L. Coleman (202) 566-1368. Persons with impaired vision may obtain cassette copies of this rule by contacting one of the above individuals.

SUPPLEMENTARY INFORMATION: (a) In November 1975 Congress enacted the Age Discrimination Act (42 U.S.C. 6101 et seq.) as part of the amendments to the Older Americans Act (Pub. L. 94-135). The Act prohibits discrimination on the basis of age in all programs and activities receiving Federal financial assistance. The Act prohibits recipients of Federal financial assistance from taking actions that result in denying, or limiting services, or otherwise discriminate on the basis of age.

(b) Like other Federal financial assistance civil rights statutes, the Act applies only to programs or activities where there is an intermediary (recipient) between the Federal financial assistance and the final beneficiary of that assistance. The Act does not apply to programs of direct Federal financial assistance such as the Social Security Program.

(c) The Act requires each department or agency that operates programs of Federal financial assistance to issue proposed and then final regulations, which must be consistent with the general regulation (45 CFR Part 90).

(d) The amendments to the Act added a requirement that the Secretary, Department of Health and Human Services (formerly the Department of Health, Education, and Welfare), approve the final age regulation of all Federal agencies.

List of Subjects in 41 CFR Part 101-8

Age, Discrimination, Federal financial assistance.

41 CFR Part 101-8 is amended as follows:

PART 101-8—NONDISCRIMINATION IN FEDERAL FINANCIAL ASSISTANCE PROGRAMS

1. The authority citation for Subpart 101-8.7 reads as follows:

Authority: 42 U.S.C. 6101 et seq.

2. The table of contents for Part 101-8 is amended by adding the following Subpart:

Subpart 101-8.7—Discrimination Prohibited on the Basis of Age

3. Subpart 101-8.7, consisting of §§ 101-8.700 through 101-8.725 is added to read as follows:

Subpart 101-8.7—Discrimination Prohibited on the Basis of Age

§ 101-8.700 Purpose of the Age Discrimination Act of 1975.

The Age Discrimination Act of 1975, as amended, prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance.

§ 101-8.701 Scope of General Service Administration's age discrimination regulation.

This regulation sets out General Services Administration's (GSA) policies and procedures under the Age Discrimination Act of 1975, as amended, in accordance with 45 CFR Part 90. The Act and the Federal regulation permits Federal financial assistance programs and activities to continue to use certain age distinctions and factors other than age which meet the requirements of the Act and its implementing regulations.

§ 101-8.702 Applicability.

(a) The regulation applies to each GSA recipient and to each program or activity operated by the recipient that

benefits from GSA Federal financial assistance.

(b) The regulations does not apply to:

(1) An age distinction contained in that part of Federal, State, local statute or ordinance adopted by an elected, general purpose legislative body that:

(i) Provides any benefits or assistance to persons based on age;

(ii) Establishes criteria for participation in age-related terms; or

(iii) Describes intended beneficiaries or target groups in age-related terms.

(2) Any employment practice of any employer, employment agency, labor organization or any labor-management apprenticeship training program, except for any program or activity receiving Federal financial assistance for public service employment under the Comprehensive Employment and Training Act (CETA) (29 U.S.C. 801 et seq.).

§ 101-8.703 Definitions of terms.

(a) As used in these regulations, the term: "Act means the Age Discrimination Act of 1975, as amended (Title III of Pub. L. 94-135).

(b) "Action" means any act, activity, policy, rule, standard, or method of administration.

(c) "Age" means how old a person is, or the number of years from the date of a person's birth.

(d) "Age distinction" means any action using age or an age-related term.

(e) "Age-related term" means a word or words that imply a particular age or range or ages (for example, "children," "adult," "older person," but not "student").

(f) "Agency" means a Federal department or agency empowered to extend Federal financial assistance.

(g) Agency Responsible Officials:

(1) "Administrator" means the Administrator of General Services.

(2) "Director, Office of Civil Rights" means the individual responsible for managing the agency's nondiscrimination Federal financial assistance program, or his or her designee.

(h) "Federal financial assistance" means (1) grants and loans of Federal funds, (2) the grant or donation of Federal property and interests in property, (3) the services of Federal personnel, (4) the sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purposes of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient, and (5) any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

(i) "GSA" means the United States General Services Administration.

(j) "Primary recipient" means any recipient which is authorized or required to extend Federal financial assistance to another recipient for the purpose of carrying out a program.

(k) "Recipient" means any State, political subdivision of any State, or instrumentality of any State or political subdivision, any public or private agency, institution, or organization, or any other entity, or any individual, in any State, to whom Federal financial assistance is extended, directly or through another recipient, for any program, including any successor, assign, or transferee thereof, but such term does not include any ultimate beneficiary under any such program.

§ 101-8.704 Rules against age discrimination.

The rules stated in this section are limited by the exceptions contained in § 101-8.706 of this regulation

(a) *General rule.* No person in the United States may on the basis of age, be excluded from participation, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance from GSA.

(b) *Specific rules.* A recipient may not, in any program or activity receiving Federal financial assistance, directly or through contractual licensing, or other arrangement, use age distinctions or take any other actions that have the effect on the basis of age, of:

(1) Excluding individuals from participating in, denying them the benefits of, or subjecting them to discrimination under a program or activity receiving Federal financial assistance; or

(2) Denying or limiting individual opportunity to participate in any program or activity receiving Federal financial assistance.

(c) The forms of age discrimination listed in paragraph (b) of this section are not necessarily a complete list.

§ 101-8.705 Definition of normal operation and statutory objective.

The terms "normal operation" and "statutory objective" are defined as follows:

(a) "Normal operation" means the operation of a program or activity without significant changes that would inhibit meeting objectives.

(b) "Statutory objective" means any purpose of a program or activity expressly stated in any Federal, State, or local statute or ordinance adopted by an elected, general purpose legislative body.

§ 101-8.706 Exceptions to the rules against age discrimination.

§ 101-8.706-1 Normal operation or statutory objective of any program or activity.

A recipient is permitted to take an action, otherwise prohibited, if the action reasonably takes into account age as a factor necessary to the normal operation or achievement of any statutory objective of a program or activity. An action reasonably takes into account age as a factor if:

(a) Age is used as a measure or approximation of one or more other characteristics; and

(b) The other characteristic must be measured or approximated for the normal operation of the program or activity to continue, or to achieve any statutory objective of the program or activity; and

(c) The other characteristic can be reasonably measured or approximated by the use of age; and

(d) The other characteristic is impractical to measure directly on an individual basis.

§ 101-8.706-2 Reasonable factors other than age.

(a) A recipient is permitted to take an action, otherwise prohibited by § 101-8.706-1, which is based on something other than age, even though the action may have a disproportionate effect on persons of different ages.

(b) An action may be based on a factor other than age only if the factor bears a direct and substantial correlation to the normal operation of the program or activity or to the achievement of a statutory objective.

§ 101-8.707 Burden of proof.

The burden of proving that an age distinction or other action falls within the exceptions outlined in § 101-8.706 is the recipient's.

§ 101-8.708 Affirmative action by recipient.

Even in the absence of a finding of age discrimination, a recipient may take affirmative action to overcome the effects resulting in limited participation in the recipient's program or activity.

§ 101-8.709 Special benefits for children and the elderly.

If a recipient's program provides special benefits to the elderly or to children, such use of age distinctions is presumed to be necessary to the normal operation of the program.

notwithstanding the provisions of § 101–8.705.

§ 101–8.710 Age distinctions contained in General Services Administration regulation.

Any age distinctions contained in a rule or regulation issued by GSA are presumed to be necessary to the achievement of a statutory objective of the program to which the rule or regulation applies. The GSA regulation 41 CFR 101–44.207(a) (3) through (27), describes specific Federal financial assistance programs which provide assistance to all age groups. However, the "Child Care Center" program servicing children through age 14, and "Programs for Older Individuals", are the only two programs where age distinctions are provided.

§ 101–8.711 General responsibilities.

Each recipient of Federal financial assistance from GSA is responsible for ensuring that its programs and activities comply with the Act and this regulation and must take steps to eliminate violations of the Act. A recipient is also responsible for maintaining records, providing information, and affording GSA access to its records to the extent GSA finds necessary to determine whether the recipient is complying with the Act and this regulation.

§ 101–8.712 Notice to subrecipients and beneficiaries.

(a) If a primary recipient passes on Federal financial assistance from GSA to subrecipients, the primary recipient provides to subrecipients, written notice of their obligations under the Act and this regulation.

(b) Each recipient makes necessary information about the Act and this regulation available to its program beneficiaries to inform them about the protections against discrimination provided by the Act and this regulation.

§ 101–8.713 Assurance of compliance and recipient assessment of age distinctions.

(a) Each recipient of Federal financial assistance from GSA signs a written assurance as specified by GSA that it intends to comply with the Act and this regulation.

(b) Recipient assessment of age distinctions.

(1) As part of a compliance review under § 101–8.715 or complaint investigation under § 101.8.718, GSA may require a recipient employing the equivalent of 15 or more employees to complete a written self-evaluation of any age distinction imposed in its program or activity receiving Federal financial assistance from GSA to assess the recipient's compliance with the Act.

(2) If an assessment indicates a violation of the Act and the GSA regulation, the recipient takes corrective action.

§ 101–8.714 Information requirements.

Each recipient must:

(a) Keep records in a form and containing information that GSA determines necessary to ensure that the recipient is complying with the Act and this regulation.

(b) Provide to GSA upon request, information and reports that GSA determines necessary to find out whether the recipient is complying with the Act and this regulation.

(c) Permit reasonable access by GSA to books, records, accounts, facilities, and other sources of information to the extent GSA finds it necessary to find out whether the recipient is complying with the Act and this regulation. GSA adopts HHS policy regarding the kinds of data and information recipients are expected to keep (45 CFR 90.34). This policy is parallel to compliance information sections in the Title VI, Title IX, and Section 504 implementation regulations. While recognizing the need for enough data to assess recipient compliance, GSA is committed to lessening the data gathering burden on recipients. GSA further recognizes that there is no established body of knowledge or experience to guide the assessment of age discrimination. This regulation, therefore, does not impose specific data requirements upon recipients, rather, it allows GSA to be flexible in deciding what kinds of data should be kept by recipients, based on what kinds of data prove useful as GSA gains experience with the Age Discrimination Act, and age discrimination issues become clearer.

(d) In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 59–511), the reporting and record keeping provisions included in this regulation will be submitted, for approval, to the Office of Management and Budget (OMB). No data collection or record keeping requirement will be imposed on recipients or donees without the required OMB approval number.

§ 101–8.715 Compliance reviews.

(a) GSA may conduct compliance reviews and use similar procedures to investigate and correct violations of the Act and this regulation. GSA may conduct the reviews even in the absence of a complaint against a recipient. The reviews may be as comprehensive as necessary to determine whether a violation of the Act and this regulation has occurred.

(b) If a compliance review indicates a violation of the Act or this regulation, GSA attempts to achieve voluntary compliance with the Act. If compliance cannot be achieved, GSA arranges for enforcement as described in § 101–8.720.

§101–8.716 Complaints.

(a) Any person, individually or as a member of a class (defined at 101–8.703(e)) or on behalf of others, may file a complaint with GSA alleging discrimination prohibited by the Act or this regulation based on an action occurring after July 1, 1979. A complainant must file a complaint within 80 days from the date the complainant first has knowledge of the alleged act of discrimination. However, for good cause shown, GSA may extend this time limit.

(b) GSA considers the date a complaint is filed to be the date upon which the complaint is sufficient to be processed.

(c) GSA attempts to facilitate the filing of complaints if possible, including taking the following measures:

(1) Accepting as a sufficient complaint, any written statement that identifies the parties involved and the date the complainant first had knowledge of the alleged violation, describes the action or practice complained of, and is signed by the complainant;

(2) Freely permitting a complainant to add information to the complaint to meet the requirements of a sufficient complaint;

(3) Notifying the complainant and the recipient (or their representative) of their right to contact GSA for information and assistance regarding the complaint resolution process.

(d) GSA returns to the complainant any complaint outside the jurisdiction of this regulation, and states the reason(s) why it is outside the jurisdiction of the regulation.

§ 101–8.717 Mediation.

(a) GSA promptly refers to the mediation agency designated by the Secretary, HHS, all sufficient complaints that:

(1) Fall within the jurisdiction of the Act and this regulation, unless the age distinction complained of is clearly within an exception; and

(2) Contain the information needed for further processing.

(b) Both the complainant and the recipient must participate in the mediation process to the extent necessary to reach an agreement or make an informed judgement that an agreement is not possible. Both parties

need not meet with the mediator at the same time.

(c) If the complainant and the recipient agree, the mediator will prepare a written statement of the agreement and have the complainant and the recipient sign it. The mediator must send a copy of the agreement to GSA. GSA takes no further action on the complaint unless the complainant or the recipient fails to comply with the agreement.

(d) The mediator must protect the confidentiality of all information obtained in the course of the mediation. No mediator may testify in any adjudicative proceeding, produce any document, or otherwise disclose any information obtained in the course of the mediation process without prior approval of the head of the mediation agency.

(e) The mediation proceeds for a maximum of 60 calendar days after a complaint is filed with GSA. Mediation ends if:

(1) 60 calendar days elapse from the time the complaint is filed; or

(2) Before the end of the 60 calendar-day period an agreement is reached; or

(3) Before the end of that 60 calendar-day period, the mediator finds that an agreement cannot be reached.

Note.—The 60 calendar day period may be extended by the mediator, with the concurrence of GSA, for not more than 30 calendar days if the mediator determines that agreement is likely to be reached during the extension period.

(f) The mediator must return unresolved complaints to GSA.

§ 101-8.718 Investigation.

(a) *Informal investigation.* GSA investigates complaints that are unresolved after mediation or are reopened because of a violation of a mediation agreement. As part of the initial investigation, GSA uses informal factfinding methods, including joint or separate discussions with the complainant and the recipient, to establish the fact and, if possible, settle the complaint on terms that are mutually agreeable to the parties. GSA may seek the assistance of any involved State program agency. GSA puts any agreement in writing and has it signed by the parties and an authorized official designated by the Administrator or the Director, Office of Organization and Personnel. The settlement may not affect the operation of any other enforcement efforts of GSA, including compliance reviews and investigation of other complaints that may involve the recipient. The settlement is not a finding of discrimination against a recipient.

(b) *Formal investigation.* If GSA cannot resolve the complaint through informal investigation, it begins to develop formal findings through further investigation of the complaint. If the investigation indicates a violation of these regulations, GSA attempts to obtain voluntary compliance. If GSA cannot obtain voluntary compliance, it begins enforcement as described in § 101-8.720.

§ 101-8.719 Prohibition against intimidation or retaliation.

A recipient may not engage in acts of intimidation or retaliation against any person who:

(a) Attempts to assert a right protected by the Act of this regulation; or

(b) Cooperates in any mediation, investigation, hearing, conciliation, and enforcement process.

§ 101-8.720 Compliance procedure.

(a) GSA may enforce the Act and these regulations through:

(1) Termination of a recipient's Federal financial assistance from GSA under the program or activity involved where the recipient has violated the Act or this regulation. The determination of the recipient's violation may be made only after a recipient has had an opportunity for a hearing on the record before an administrative law judge.

(2) Any other means authorized by law including, but not limited to:

(i) Referral to the Department of Justice for proceeding to enforce any rights of the United States or obligations of the recipients created by the Act or this regulation, or

(ii) Use of any requirement of or referral to any Federal, State, or local government agency that has the effect of correcting a violation of the Act or this regulation.

(b) GSA limits any termination to the particular recipient and program or activity or part of such program and activity GSA finds in violation of this regulation. GSA does not base any part of a termination on a finding with respect to any program or activity of the recipient that does not receive Federal financial assistance from GSA.

(c) GSA takes no action under paragraph (a) until:

(1) The administrator advises the recipient of its failure to comply with the Act and this regulation and determines that voluntary compliance cannot be obtained, and

(2) 30 calendar days elapse after the Administrator sends a written report of the grounds of the action to the committees of Congress having legislative jurisdiction over the Federal program or activity involved. The Administrator files a report if any action is taken under paragraph (a) of this section.

(d) GSA may also defer granting new Federal financial assistance from GSA to a recipient when a hearing under § 101-8.721 is initiated.

(1) New Federal financial assistance from GSA includes all assistance for which GSA requires an application or approval, including renewal or continuation of existing activities, or authorization of new activities, during the deferral period. New Federal financial assistance from GSA does not include assistance approved before the beginning of a hearing.

(2) GSA does not begin a deferral until the recipient receives notice of an opportunity for a hearing under § 101-8.721. GSA does not continue a deferral for more than 60 calendar days unless a hearing begins within that time or the time for beginning the hearing is extended by mutual consent of the recipient and the Administrator. GSA does not continue a deferral for more than 30 calendar days after the close of the hearing, unless the hearing results in a finding against the recipient.

(3) GSA limits any deferral to the particular recipient and program or activity or part of such program or activity GSA finds in violation of these regulations. GSA does not base any part of a deferral on a finding with respect to any program or activity of the recipient which does not, and would not, receive Federal financial assistance from GSA.

§ 101-8.721 Hearings.

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required, reasonable notice shall be given by registered or certified mail, return receipt requested, to the affected applicant or recipient. This notice shall advise the applicant or recipient of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and the matters of fact or law asserted as the basis for this action; and either fix a date not less than 20 days after the date of such notice within which the applicant or recipient may request of the responsible GSA official that the matter be scheduled for hearing or advise the applicant or recipient that the matter in question has been set down for hearing at a stated place and time. The time and place so fixed shall be reasonable and shall be subject to change for cause.

The complainant, if any, shall be advised of the time and place of the hearing. An applicant or recipient may waive a hearing and submit written

information and argument for the record. The failure of an applicant or recipient to request a hearing for which a data has been set shall be deemed to be a waiver of the right to a hearing under section 602 of the Act, and consent to the making of a decision on the basis of such information as may be filed as the record.

(b) *Time and place of hearing.* Hearings shall be held at GSA in Washington, D.C., at a time fixed by the Director, Office of Civil Rights (OCR), unless he or she determines that the convenience of the applicant or recipient or of GSA requires that another place be selected. Hearings shall be held before a hearing examiner designated in accordance with 5 U.S.C. 3105 and 3344 (section 11 of the Administrative Procedure Act).

(c) *Right to counsel.* In all proceedings under this section, the applicant or recipient and GSA shall have the right to be represented by counsel.

(d) *Procedures, evidence, and record.* (1) The hearing, decision, and any administrative review thereof shall be conducted in conformity with sections 5–8 of the Administrative Procedure Act, and in accordance with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. Both GSA and the applicant or recipient shall be entitled to introduce all relevent evidence on the issues as stated in the notice for hearing or as determined by the Officer conducting the hearing at the outset of or during the hearings. Any person (other than a Government employee considered to be on official business) who, having been invited or requested to appear and testify as a witness on the Government's behalf, attends at a time and place scheduled for a hearing provided for by this part, may be reimbursed for his travel and actual expenses of attendance in an amount not to exceed the amount payable under the standardized travel regulations to a Government employee traveling on official business.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the officer conducting the hearing. The hearing officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advances on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

(e) *Consolidated of Joint Hearings.* In cases in which the the same or related facts are asserted to constitute non-compliance with this regulation with respect to two or more programs to which this part applies, or noncompliance with this part, and the regulations of one or more other Federal departments or agencies issued under Title VI of the Act, the responsible GSA official may, by agreement with such other departments or agencies where applicable, provide for the conduct of consolidated or joint hearings, and for the application to such hearings of rules of procedures not inconsistent with this part. Final decisions in such cases, insofar as this regulation is concerned, shall be made in accordance with § 101–8.722.

§ 101–8.722 Decisions and notices.

(a) *Decisions by hearing examiners.* After a hearing is held by a hearing examiner such hearing examiner shall either make an initial decision, if so authorized, or certify the entire record including his recommended findings and proposed decision to the Agency designated reviewing authority for final decision. A copy of such initial decision or certification shall be mailed to the applicant or recipient and to the complainant, if any. Where the initial decision referred to in this paragraph or in paragraph (c) of this section is made by the hearing examiner, the applicant or recipient or the counsel for GSA may, within the period provided for in the rules of procedure issued by GSA official, file with the reviewing authority exceptions to the initial decision, with his or her reasons therefore. Upon the filing of such exceptions the reviewing authority shall review the initial decision and issue a decision including the reasons therefor. In the absence of exceptions the initial decision shall constitute the final decision, subject to the provisions of paragraph (e) of this section.

(b) *Decisions on record or review by the reviewing authority.* Whenever a record is certified to the reviewing authority for decision or it reviews the decision of a hearing examiner pursuant to paragraph (a) or (c) of this section, the applicant or recipient shall be given reasonable opportunity to file with it briefs or other written statements of its contentions, and a copy of the final decision of the reviewing authority shall be given in writing to the applicant or recipient and to the complainant, if any.

(c) *Decisions on record where a hearing is waived.* Whenever a hearing is waived pursuant to § 101–8.721(a) the reviewing authority shall make its final decision on the record or refer the matter to a hearing examiner for an initial decision to be made on the record. A copy of such decision shall be given in writing to the applicant or recipient, and to the complainant, if any.

(d) *Rulings required.* Each decision of a hearing examiner or reviewing authority shall set forth a ruling on each findings, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to this part with which it is found that the applicant or recipient has failed to comply.

(e) *Review in certain cases by the Administrator.* If the Administrator has not personally made the final decision referred to in paragraph (a), (b), or (c) of this section, a recipient or applicant or the counsel for GSA may request the Administrator to review a decision of the Reviewing Authority in accordance with rules of procedure issued by the responsible GSA official.

Such review is not a matter of right and shall be granted only where the Administrator determines there are special and important reasons therefor. The Administrator may grant or deny such request, in whole or in part. He or she may also review such a decision in accordance with rules of procedure issued by the responsible GSA official. In the absence of a review under this paragraph, a final decision referred to in paragraphs (a), (b), (c) of this section shall become the final decision of GSA when the Administrator transmits it as such to Congressional committees with the report required under section 602 of the Act. Failure of an applicant or recipient to file an exception with the Reviewing Authority or to request review under this paragraph shall not be deemed a failure to exhaust administrative remedies for the purpose of obtaining judicial review.

(f) *Content of orders.* The final decision may provide for suspension or termination of, or refusal to grant or continue Federal financial assistance, in whole or in part, to which this regulation applies, and may contain such terms, conditions and other provisions as are consistent with and will effectuate the purposes of the Act and this regulation.

including provisions designed to assure that no Federal financial assistance to which this regulation applies will thereafter be extended under such law or laws to the applicant or recipient determined by such decision to be in default in its performance of an assurance given by it pursuant to this regulation, or to have otherwise failed to comply with this regulation unless and until it corrects its noncompliance and satisfies the responsible GSA official that it will fully comply with this regulation.

(g) *Post-termination proceedings.* (1) An applicant or recipient adversely affected by an order issued under paragraph (f) of this section shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with this part and provides reasonable assurance that is will fully comply with this part.

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (f) of this section may at any time request the responsible GSA official to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or recipient has met the requirements of paragraph (g)(1) of this section. If the responsible GSA official determines that those requirements have been satisfied, he or she shall restore such eligibility.

(3) If the responsible GSA official denies any such request, the applicant or recipient may submit a request for a hearing in writing, specifying why it believes such official to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with rules of procedure issued by the responsible GSA official. The applicant or recipient will be restored to such eligibility if it proves at such hearing that it satisfied the requirements of paragraph (g)(1) of this section. While proceedings under this paragraph are pending, the sanctions imposed by the order issued under paragraph (f) of this section shall remain in effect.

§ 101-8.723 Remedial action by recipient.

If GSA finds a recipient discriminated on the basis of age, the recipient must take any remedial action that GSA may require to overcome the effects of the discrimination. If another recipient exercises control over the recipient that discriminated, GSA may require both recipients to take remedial action.

§ 101-8.724 Exhaustion of administrative remedies.

(a) A complainant may file a civil action following the exhaustion of administrative remedies under the Act. Administrative remedies are exhausted if:

(1) 180 calendar days elapse after the complainant files the complaint and GSA makes no finding with regard to the complaint; or

GSA Issues a finding in favor of the recipient.

(b) If GSA fails to make a finding within 180 days or issues a finding in favor of the recipient, GSA must:

(1) Promptly advise the complainant of this fact;

(2) Advise the complainant of his or her right to bring civil action for injunctive relief; and

(3) Inform the complainant:

(i) That the complainant may bring civil action only in a United States district court for the district in which the recipient is located or transacts business;

(ii) That a complainant prevailing in a civil action has the right to be awarded the costs of the action, including reasonable attorney's fees, but that the complainant must demand these costs in the complaint;

(iii) That before commencing the action the complainant must give 30 calendar days notice by registered mail to the Secretary, HHS, The Administrator, the Attorney General of the United States, and the recipient;

(iv) That the notice must state the alleged violation of the Act, the relief requested, the court in which the complainant is bringing the action, and whether or not attorney's fees are demanded in the event the complainant prevails; and

(v) That the complainant may not bring an action if the same alleged violation of the Act by the same recipient is the subject of a pending action in any court of the United States.

§ 101-8.725 Alternate funds disbursal.

If GSA withholds Federal financial assistance from a recipient under this regulation, the Administrator may disburse the assistance to an alternate recipient: any public or nonprofit private organization; or agency or State or political subdivision of the State. The Administrator requires any alternate recipient to demonstrate:

(a) The ability to comply with this regulation; and

(b) The ability to achieve the goals of the Federal Statutes authorizing the program or activity.

Dated: May 2, 1985.

Dwight Ink,

Acting Administrator of General Services.

[FR Doc. 85-13347 Filed 6-3-85; 8:45 am]

BILLING CODE 6820-30-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 78

[MM Docket No. 84-886; RM-4328; FCC 85-258]

Licensing Procedures and Reporting Requirements in the Cable Television Relay Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action implements a one-step licensing process and deletes or modifies several filing and reporting requirements for applicants and licensees in the Cable Television Relay Service (CARS). The changes include deleting the annual reporting and 30-day notification requirements of CARS licensees who supply programming to other users; eliminating the need to file for transfer of assignment or control when no actual ownership change occurs in the licensee or its ultimate controlling entity; deleting the requirement of FCC Form 327, Schedule E, to list all communities served from each receive site of the proposed CARS station. These changes will serve the public interest by encouraging more expeditious service which should result in reduced processing delays and reporting burdens.

EFFECTIVE DATE: June 28, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Sharon A. Briley, Mass Media Brureau, (202) 632-6302.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 78

Cable television.

Report and Order (Proceeding Terminated)

In the matter of amendment of Part 78 of the Commission's Rules Concerning Licensing Procedures and Reporting Requirements in the Cable Television Relay Service; MM Docket No. 84-886, RM-4328, FCC 85-258.

Adopted: May 13, 1985.

Released: May 22, 1985.

By the Commission.

Introduction

1. In this *Report and Order*, we are amending several rules and policies pertaining to stations in the Cable Television Relay Service (CARS). Specifically, we are taking the following actions: (1) Adopting a one-step licensing application process; (2) streamlining filing requirements for assignment or transfer of control applications; (3) eliminating the requirement that CARS applicants identify authorized program distribution facilities to be served; and (4) deleting the annual reporting requirements of certain CARS licensees.

Background

2. On January 7, 1983, Westinghouse Broadcasting and Cable, Inc. (Group W) filed a "Petition for Rulemaking" requesting several modifications to the current licensing procedures and reporting requirements for CARS facilities. In addition, Group W requested that the Commission address the allocation of additional spectrum to CARS, the need for certain technical and operational regulations, and the eligibility of master antenna television (MATV) systems for CARS licensees.

3. In response to Group W's petition, the Commission adopted a *Notice of Proposed Rule Making (Notice)* in the above-captioned proceeding.[1] In the *Notice*, we proposed to: (1) Consolidate the two-step construction permit (CP) and licensing process into a one-step licensing process; (2) require licensees to file only one application for approval of assignment or transfer of control for all CARS authorizations affected; (3) require applications for approval of assignment or transfer of control to be filed only where a change occurs in the identity of the licensee or its ultimate controlling entity; (4) eliminate the requirement of FCC Form 327, Schedule E, to list all cable television communities served from each receive site of a proposed CARS station; and (5) delete the annual reporting requirement for CARS licensees who supply programming to others on a nonprofit, cost sharing basis. We also addressed Group W's concerns regarding the assignment of additional spectrum to CARS; the need for certain technical operational regulations; and the eligibility of MATV systems for CARS licenses. We indicated that Group W's first two concerns are more appropriate to consider as part of General Docket No. 82-334.[2] With respect to the eligibility of MATV systems for CARS licenses, we indicated that our prior opinion in *Cable Dallas I* would apply to such cases.[3]

4. We receive comments or replies from nine parties all of which are CARS microwave licensees or their representatives.[4] Westinghouse Broadcasting and Cable, Inc. (Group W), the original petitioner, filed a separate "Petition for Limited Reconsideration" which we are treating herein as a comment.[5]

Discussion

5. *Licensing Requirements.* In the *Notice*, we indicated that the current CARS licensing process appears unnecessarily burdensome and duplicative and proposed to replace it with a simplified one-step procedure. Under this proposal, the current construction permit and license steps would be combined and the CARS station licensee would be required to become operational within one year of the date of the license grant. We also requested comment concerning whether there is a need to require licensees to notify the Commission when construction of the station is complete.

6. All commenting parties support the proposal to combine the construction permit and license phases of the current CARS licensing process. Commenting parties agree with our initial finding that the current process is unnecessarily duplicative and burdensome. They differ, however, on the length of time that should be allowed for a CARS station to become operational. ATC, Gill Industries, TCI, and CBS/Black Hawk Cable concur with the one-year proposal. Group W and Heritage basically support the one-year time limit, however, Group W describes this as the "minimum acceptable" period and Heritage urges that provisions be made for extensions of time upon appropriate showings. The CARS users and the NCTA request an 18-month limit. They cite franchising process delays, equipment availability, and weather conditions as reasons for the need for additional time.

7. With respect to whether new licensees should be required to notify the FCC upon completion of construction, six parties believe that some type of notification is useful for frequency coordination purposes. ATC mentions the requirement contained in § 78.36 of our rules for prior coordination of channels in the 12.7–13.25 GHz band. It suggests that new licensees be required to submit either a letter or postcard a short time following completion of construction. Heritage and the CARS users, however, believe that notification is an unnecessary reporting obligation. Heritage notes that such reporting is not required for broadcast auxiliary stations and other licensees.

8. After consideration of the record before us, we find that the public interest would be better served by a one-step licensing procedure that eliminates the requirement for construction permits. This would facilitate more expeditious and efficient processing of CARS applications, and thereby enable stations to commence operation sooner and reduce the administrative burden of the licensing process on applicants and the Commission. Accordingly, we are adopting a new CARS licensing procedure that combines the separate CP and license applications into a single license application.[6] The new CARS licensing procedure will be similar to the one-step licensing plans we have already instituted for other services associated with mass media communications including remote pick-ups, studio-to-transmitter links, intercity relays, TV auxiliary stations, and ITFS facilities. In order to avoid disruption of CARS licensing activity currently in process, we will continue to process all pending CARS applications and outstanding construction permits according to the existing two-step procedure.

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[1] *See Notice of Proposed Rule Making* in MM Docket No. 84-886, 49 FR 38160, adopted September 13, 1984.

[2] In General Docket No. 82-334, we currently are addressing the matter of a comprehensive spectrum utilization policy for terrestrial microwave services. *See First Report and Order* in General Docket No. 82-334, 48 FR 50722 (1983).

[3] The *Notice of Proposed Rule Making* in MM Docket No. 84-1296, 49 FR 48765 (1984) implementing certain provisions of the Cable Communications Policy Act, Pub. L. 98-549, § 1 *et seq.*, 98 Stat. 2779 (1984), addresses the definition of the term "cable system" and proposes to permit certain MATV or SMATV systems to qualify as a cable system under this definition.

[4] Parties filing comments and/or replies are: American Television and Communications Corporation ("ATC"); CBS/Black Hawk Cable Communications Corp.; Gill Industries; Heritage Communications, Inc.; National Cable Television Association ("NCTA"); 29 CARS microwave users (CARS users); Tele-Communications, Inc. ("TCI"); Video Services Group of Centel Communications Company ("Centel"); and Group W.

[5] Under the Commission's rules, petitions for reconsideration may be filed only on final Commission actions. *See* 47 CFR 1.429.

[6] Section 319(d) of the Communications Act has been amended to allow the Commission to eliminate the requirement for construction permits for certain types of stations, including privately-owned fixed microwave facilities such as CARS stations, if grant of a separate CP would not serve the public interest. *See* 47 U.S.C. 319(d), as amended by the Communications Amendments Act of 1982, Pub. L. 97-259.

9. We continue to believe that one year is a sufficient period for licensees to complete construction and commence operation under normal circumstances. Thus, we are adopting a requirement that a CARS licensee complete construction and make the station fully operational within one year of the date the license is granted. However, in cases where additional time is needed, we may grant extensions for good cause and upon appropriate showing. In general, licensees will be required to submit requests for extensions of time at least 30 days prior to the expiration of the one year period. We also have decided to require CARS licensees to notify the Commission when the station commences operation. This notification may be in either letter or postcard form and *must* be submitted on or before the expiration date of the one year construction period. If notification that the station has commenced operation is not submitted within this period, the station license will be automatically forfeit. We believe this notification requirement is necessary to provide accurate records of actual CARS channel usage for frequency coordination purposes and that it does not impose a significant burden on licensees.

10. *Assignment and Transfer of Control.* In the *Notice*, we proposed to simplify certain aspects of the procedure for applying for assignment or transfer of control of CARS stations. In cases involving transfer of control of two or more stations from one party to another single party, we proposed to permit applicants to prepare a single CARS license application form (FCC Form 327) that identifies all of the stations to be affected by the action and to submit a copy of the combined application for each individual station. We also proposed to require filing of applications for assignment or transfer of control only where there is a change in the ownership of the licensee or the ultimate controlling entity of the licensee. For example, under this procedure, we would not require notification if there were merely a change in the structure of intermediate corporate entities without a change in ownership of the licensee or the ultimate controlling entity of the licensee. We requested comment concerning any implications these proposals may have with respect to section 310(d) of the Communications Act.

11. All commenting parties support the proposal that a single FCC Form 327 be filed for all CARS stations affected by an assignment or transfer of control. In addition, ATC, the CARS users, Group W, NCTA, and TCI suggest that the Commission adopt a procedure whereby a licensee notifies the Commission in writing of any change which does not affect an assignment or transfer of control. Heritage states that a name change in a corporate licensee should be subject only to a notification requirement; but, it believes that Commission approval is required under section 310(d) of the Communications Act for "all transfers, including *pro forma* transfers of control and assignments."

12. After consideration of the record on this issue, we have decided to revise the requirements with respect to assignment or transfer of control of CARS licenses in the manner proposed in the *Notice*. We believe that the current procedure that requires a licensee transferring two or more CARS stations to a single party to submit individual FCC Form 327 transfer applications for each station is unnecessarily burdensome and may cause needless administrative delays. Similarly, we see no need for FCC approval in cases where ownership transfer does not result in a change in the identity of the licensee or the ultimate controlling interest of the licensee. Section 310(d) requires Commission approval only when a license is transferred to another person or when control of a corporation holding a license is transferred.[7] Thus, section 310(d) does not appear to require FCC approval of ownership changes that do not involve a change in the identity or controlling interest of the licensee. *Pro forma*, or "short form," assignments or transfers of control which do involve such changes will continue to require approval.

13. Under the new procedures, CARS licensees transferring multiple stations to a single party will prepare a single FCC Form 327 application that lists each station to be transferred. The licensee will then submit one copy of this combined application for each CARS station listed thereon. For example, if five stations are being transferred, the licensee would submit five copies of the same combined FCC Form 327.

14. Also, we no longer will require the filing of requests for approval of CARS station ownership changes that do not affect the identity or controlling interest of the licensee.[8] Thus, CARS licensees will not be required to notify the Commission at all of such transfers of ownership. In all cases of ownership transfer, the party holding the controlling interest in the licensee shall be determined in accordance with current Commission policy. *See, e.g., News International, PLC*, 97 FCC 2d 349, 355 (1984).

15. *Identification of communities served.* Section 78.1 of the Commission's rules provides that CARS stations are to be authorized for the purpose of relaying signals to cable television systems, TV translator stations, and low-power TV stations.[9] In order to ensure that CARS facilities are used in accordance with their authorized purposes, applicants for CARS stations are required to list all such authorized distribution facilities to be served from each receive site on the license application. This information is submitted on Schedule E of FCC Form 327. In addition, licensees are required under § 78.1(e)(6) of the rules to provide the Commission 30 days advance notice when program material relayed over a CARS facility is to be supplied to any cable system that has not been specified in the license application or on a prior notification to the Commission.[10]

16. In the *Notice*, we proposed to eliminate the requirement to list all authorized distribution facilities served by each receive site of the proposed station on the license application. We stated that the identification of one authorized distribution facility appears to be sufficient to verify compliance with the rules. Consistent with this interpretation, we also proposed to delete the rule requiring 30 day advance notification when program material is to be provided to distribution facilities not previously reported to the Commission.

17. The commenting parties unanimously support these proposals and concur with our initial opinion that identification of a single authorized program distribution facility is sufficient to demonstrate that the CARS station is being used for its intended purpose. Commenters offer alternative suggestions with respect to the single program distribution facility that would be identified under the revised requirement. NCTA, Group W, and Heritage suggest that any cable system

[7] Section 310(d) of the Communications Act provides, in relevant part, that "[n]o . . . station license, or any rights thereunder, shall be transferred, assigned, or disposed of in any manner, voluntarily or involuntarily, directly or indirectly, or by transfer of control of any corporation holding such permit or license, to any person except upon application to the Commission and upon finding by the Commission that the public interest, convenience, and necessity will be served thereby." 47 U.S.C. 310(d).

[8] We wish to emphasize that in cases involving changes in the identity or controlling interest of the licensee, we will continue to require the licensee to apply for FCC approval on FCC Form 327.

[9] *See* 47 CFR 78.1.

[10] *See* 47 CFR 78.11(e)(6).

served from the receive site would be satisfactory to verify compliance with § 78.1. ATC, Gill Industries, the CARs users, and Centel submit that the cable community unit specified be either the community with the largest number of subscribers (the "dominant" community) or the lead or headend community (the "primary" community) where CARS stations serve a large cable system. Centel also suggests that applicants should be permitted to list additional cable communities in cases where notice of CARS station operation might be helpful in other activities such as frequency coordination.

18. After full consideration of the record on this issue, we have determined that certification by the applicant that at least one cable system, TV translator, or low power TV station will be served by the CARS station is sufficient to demonstrate that the station will be used for authorized purposes under § 78.1. We find no regulatory need for the identity of any specific authorized program distribution facility served from a CARS receive site. Accordingly, we are replacing Schedule E of FCC Form 327 with a statement that the CARS applicant certifies the station will provide service to at least one authorized program distribution facility.

19. *Annual reporting requirement.* We proposed to eliminate the § 78.11(f) requirement that CARS licensees who supply program material to cable television systems or television translator stations either without charge or on a nonprofit, cost sharing basis, file annual reports containing financial statements and user service information.[11] In the *Notice*, we indicated that we believe that the record keeping requirement of § 78.11(d)(2) adequately serves the purpose of documenting the no-charge or nonprofit, cost-sharing nature of such CARS service. These records must be maintained by the licensee and must be available for inspection by the Commission. The commenting parties unanimously support our initial proposal. We find that regular collection of the information provided in the annual reports is not necessary for any regulatory purpose. Accordingly, we are eliminating § 78.11(f) as proposed.

20. *Frequency allocation and other technical matters.* In the *Notice*, we stated our belief that it would be more appropriate to address Group W's concerns relating to additional frequencies for CARS use, the sharing of excess capacity, and other technical and operational matters as part of a comprehensive spectrum utilization policy for terrestrial microwave services. Such policies are currently under consideration in General Docket No. 82-334. [12] Group W, with supporting comments filed by NCTA, reiterates several requests which it alleges that the Commission has not addressed adequately in the *Notice*. Specifically, Group W requests that the Commission: (1) Permit temporary operation of less than 30 days without prior authorization; (2) permit CARS licensees to share excess capacity; (3) permit non-adjacent K channels to be authorized; (4) permit changes in the height of the radiating element of a transmitting antenna and the height of a receiving antenna without Commission approval; (5) permit minor horizontal site location changes without prior approval; (6) permit a decrease or increase in authorized operating power of less than three dB without prior approval; and (7) authorize new channel alignment to accommodate 6 MHz spacing for the use of harmonically related carriers by Local Distribution Service (LDS) stations.

21. We continue to believe that it is more appropriate to address the above technical concerns in the context of the comprehensive review of spectrum utilization policies for terrestrial microwave services in General Docket No. 82-334. We intend to consider the technical and operational aspects of CARS microwave services in a further notice of proposed rule making in General Docket No. 82-334. Accordingly, we are not addressing such issues in this proceeding.

22. *Processing of Applications.* Group W asserts that the Commission appears to delay processing an application for CARS facilities when another application is subsequently filed for different facilities at the same station. It claims that action is delayed on the first application until the subsequently filed application is also ready to be acted upon. Group W urges that this practice be eliminated because it causes unnecessary delays in the commencement of new and improved services to the public.

23. The Commission continuously reviews and revises its internal procedures with respect to the processing of license applications. While we believe that our current procedures for handling CARS applications are appropriate, we will consider Group W's concern and will examine these procedures to determine whether they include practices that could lead to unnecessary delays. If such practices are found, we will implement appropriate changes to expedite final action on CARS applications.

Conclusion

24. The decisions we are making today will serve to reduce delays in licensing CARS facilities and to eliminate unnecessary reporting requirements for CARS licensees. Accordingly, we are amending our rules to: (1) Implement a one-step licensing process for CARS applicants; (2) permit the filing of a single FCC Form 327 listing all CARS authorizations affected by an assignment or transfer of control; (3) eliminate the requirement to file for an assignment or transfer of control in cases where no actual change in ownership has occurred in either the licensee itself or the ultimate controlling parent; (4) eliminate the need to identify all community units to be served from each receive site of a proposed CARS station and replace it with a requirement that the applicant certify that the CARS station will serve at least one authorized program distribution facility; and (5) delete the requirement for CARS operators who provide program material to cable television systems or translator stations on a nonprofit, cost sharing basis to file annual reports and to notify the Commission 30 days prior to providing such programming.

25. Pursuant to the Regulatory Flexibility Act of 1980, the Commission's final analysis is as follows:

I. Need for and Purpose of the Rules

The rule changes we are adopting will reduce delays and other costs for both licensees and the Commission.

II. Summary of Issues Raised by Public Comments in Response to the Initial Regulatory Flexibility Analysis, Commission Assessment, and Changes Made as a Result

A. *Issues Raised.* The commenting parties raised no issues or concerns in response to the initial regulatory flexibility analysis.

B. *Assessment.* The Commission views the absence of specific claims of adverse impact with respect to its CARS proposals as indicative of their lack of potential for negative effects on small businesses.

C. *Changes made as a result of such comments.* None.

III. Significant Alternatives Considered and Rejected

The Commission's alternative was not to revise its filing and reporting requirements. Lack of action, however,

[11] *See* 47 CFR 78.11(f).

[12] *See* Footnote 1, *supra*.

would result in continued delays and none of the benefits which could accrue to all CARS licensees as a result of the changes.

Paperwork Reduction Act

26. The recommended changes contained herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose modified requirements and reduce the burden on the public. Implementation of these changes will be subject to approval by the Office of Management and Budget as prescribed by the Act.

Ordering Clauses

27. Authority for adoption of the rules contained herein is contained in sections 2, 4(i), 303 and 319 of the Communications Act of 1934, as amended.

28. Accordingly, it is ordered that, Part 78 of the Commission's Rules and Regulations is amended effective June 28, 1985, as set forth in the attached Appendix. It is further ordered that this proceeding is terminated.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 78—[AMENDED]

Part 78 of Title 47 of the Code of Federal Regulations in amended as follows:

The authority citation for Part 78 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.

1. 47 CFR 78.11 is amended by removing paragraph (e), removing and reserving paragraph (f), removing the reserved paragraph (h), and redesignating paragraph (i) as paragraph (e).

2. 47 CFR 78.15 is amended by revising paragraphs (b) and (c) and retaining the "Note" to read as follows:

§ 78.15 Contents of applications.

* * * * *

(b) An application for a CARS studio to headend link or LDS station license shall contain a statement that the applicant has investigated the possibility of using cable rather than microwave and the reasons why it was decided to use microwave rather than cable.

Note.—* * *

(c) CARS applicants must follow the procedures prescribed in Subpart I of Part 1 of this chapter (§§ 1.1301 through 1.1319) regarding the filing of environmental impact narrative statements, unless Commission action authorizing construction of a CARS station would be a minor action within the meaning of Subpart I of Part 1 of this chapter.

3. 47 CFR 78.20 is amended by revising paragraph (a) to read as follows:

§ 78.20 Acceptance of applications; public notice.

(a) Applications which are tendered for filing in Washington, D.C. are dated upon receipt and then forwarded to the Mass Media Bureau, where an administrative examination is made to ascertain whether the applications are complete. Applications found to be complete or substantially complete are accepted for filing and are given a file number. In case of minor defects as to completeness, the applicant will be required to supply the missing information. Applications which are not substantially complete will be returned to the applicant.

* * * * *

4. 47 CFR 78.22 is amended by revising paragraph (c) to read as follows:

§ 78.22 Objections to applications.

* * * * *

(c) Notwithstanding the provisions of paragraph (a) of this section, before Commission action on any application for an instrument of authorization, any person may file informal objections to the grant. Such objections may be submitted in letter form (without extra copies) and shall be signed by the objector. The limitation on pleadings and time for filing pleadings provided for in § 1.45 of this chapter shall not be applicable to any objections duly filed pursuant to this paragraph.

5. 47 CFR 78.23 is revised to read as follows:

§ 78.23 Equipment tests.

(a) Following the grant of a CARS license, the licensee, during the process of construction of the station, may, without further authority from the Commission, conduct equipment tests for the purpose of such adjustments and measurements as may be necessary to assure compliance with the terms of the authorization, the technical provisions of the application therefore, the rules and regulations, and the applicable engineering standards.

(b) The Commission may notify the licensee to conduct no tests or may cancel, suspend, or change the date for the beginning of equipment tests as and when such action may appear to be in the public interest, convenience, and necessity.

(c) The test authorized in this section shall be conducted only as a necessary part of construction.

§ 78.25 [Removed]

6. 47 CFR 78.25 is removed in its entirety.

7. 47 CFR 78.27 is revised to read as follows:

§ 78.27 License conditions.

(a) Authorizations (including initial grants, modifications, assignments or transfers of control, and renewals) in the Cable Television Relay Service to serve cable television systems, shall contain the condition that such cable television systems shall operate in compliance with the provisions of Part 76 (Cable Television Service) of this chapter.

(b) CARS stations licensed under this subpart are required to commence operation within one year of the date of the license grant.

(1) The licensee of a CARS station shall notify the Commission in writing when the station commences operation. Such noitification shall be submitted on or before the last day of the authorized one year construction period; otherwise, the station license shall be automatically forfeited.

(2) CARS licensees needing additional time to complete construction of the station and commence operation shall request an extension of time 30 days before the expiration of the one year construction period. Exceptions to the 30-day advance filing requirement may be granted where unanticipated delays occur.

8. 47 CFR 78.35 is amended by revising paragraph (a) and adding new paragraph (c) to read as follows:

§ 78.35 Assignment or transfer of control.

(a) No assignment of the license of a cable television relay station or transfer of control of a CARS licensee shall occur without prior FCC authorization.

* * * * *

(c) Licensees of CARS stations are not required to submit applications for assignment or transfer of control or otherwise notify the FCC in cases where the change in ownership does not affect the identity or controlling interest of the licensee.

9. 47 CFR 78.51 is amended by revising paragraph (c) to read as follows:

§ 78.51 Remote control operation.

* * * * *

(c) The Commission may notify the licensee not to commence remote control operation, or to cancel, suspend, or change the date of the beginning of such operation as and when such action

may appear to be in the public interest, convenience, or necessity.

10. 47 CFR 78.53 is amended by revising paragraph (c) to read as follows:

§ 78.53 Unattended operation.

* * * * *

(c) The Commission may notify the licensee not to commence unattended operation, or to cancel, suspend, or change the date of the beginning of such operation as and when such action may appear to be in the public interest, convenience, or necessity.

11. 47 CFR 78.63 is amended by revising the introductory text to read as follows:

§ 78.63 Inspection and maintenance of tower marking and associated control equipment.

The licensee of any CARS station which has an antenna structure required to be painted or illuminated pursuant to the provisions of section 303(q) of the Communications Act of 1934, as amended, and/or Part 17 of this Chapter, shall operate and maintain the tower marking and associated control equipment in accordance with the following:

* * * * *

12. 47 CFR 78.69 is amended by revising the introductory text to read as follows:

§ 78.69 Station records.

Each licensee of a CARS station shall maintain records showing the following:

* * * * *

13. 47 CFR 78.113 is amended by revising paragraph (a) to read as follows:

§ 78.113 Frequency monitors and measurements.

(a) The licensee of each CARS station shall employ a suitable procedure to determine that the carrier frequency of each transmitter is maintained within the tolerance prescribed in § 78.111 at all times. The determination shall be made, and the results thereof entered in the station records: when a transmitter is initially installed; when any change is made in a transmitter which may affect the carrier frequency or the stability thereof; or in any case at intervals not exceeding one year.

* * * * *

[FR Doc. 85-13393 Filed 6-3-85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 81

[PR Docket No. 84-938; FCC 85-273]

Maritime Accounting Procedures

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends the rules concerning accounting procedures for public coast stations in the Maritime Services. The purpose of the amendment is to implement international accounting requirements. The effect of the amendment is to establish internationally recognized accounting procedures in the United States.

EFFECTIVE DATE: July 1, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Robert P. DeYoung, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 81

Coast stations, Telegraph, Telephone.

Report and Order; Proceeding Terminated

In the Matter of Maritime Accounting Procedures, PR Docket No. 84-938.

Adopted: May 17, 1985.
Released: May 23, 1985.

By the Commission.

1. The *Notice of Proposed Rule Making* (Notice) in this proceeding was initiated to implement a requirement that public coast stations recognize International Accounting Authority Identification Codes (AAIC's) in order to be included in the International List of Coast Stations.[1] For the reasons set forth below, we are amending the rules substantially as proposed.

2. The International Telecommunication Union publishes an International List of Coast Stations which all ships compulsorily fitted with radiotelegraph are required to carry. By consulting this list, a ship can determine the location of a coast station, its operating frequencies and hours of service. The 1979 World Administrative Radio Conference (79 WARC) changed the procedures which govern accounting practices in the Maritime Mobile Service and the Maritime Mobile-Satellite Service. That Conference repealed former Article 38, 39, 40 and 40A in Chapter IX of the International Radio Regulations and replaced them with a new Article 66. Numbers 5088 through 5091 of Article 66 established AAIC's as the method for a ship to identify itself for accounting purposes to public coast stations worldwide.[2] Under Article 66 and CCITT Recommendations a vessel will expect any coast station in the list to accept AAIC's for billing and accounting purposes.

3. Historically some U.S. coast stations, particularly VHF stations which primarily provide local area service, have provided in their tariffs that vessels must open an individual account prior to obtaining service. Often these tariffs require payment of a subscriber fee or security deposit and use of a local account identifier. Because ships now expect coast stations listed in the international List of Coast Stations to accept AAIC's we proposed a rule to provide that those stations which do not would not be included in the international List of Coast Stations.

4. Comments on the proposed rule were filed by Amoco Transport Company (AMOCO), Mobile Marine Radio, Inc. (MMR), RCA Communications, Inc. (RCA) and TRT Telecommunications Corporation (TRT). AMOCO operates ships while MMR, RCA and TRT operate coast stations.

5. AMOCO supported the proposal to require coast stations to recognize AAIC's but opposed the provision which would permit coast stations to elect not to do so and thus not to be included in the List of Coast Stations. AMOCO did not elaborate. The flexibility for a coast station to make such an election is reasonable. The only coast stations which typically refuse to accept AAIC's by tariff are VHF coast stations which provide short range, local area service. These kinds of coast stations might well find that complying with the accounting procedures of the ITU is not worth the effort since the bulk of their business is with a local customer base. High seas coast stations, on the other hand, such as those operated by MMR, RCA and TRT, derive much of their business from ships on international voyages and thus would want to be included in the List of Coast Stations.

6. This fact is reflected in the comments of MMR, RCA and TRT all of which supported the concept but objected to the broad wording of the proposed rule. MMR, RCA and TRT expressed their concern that a literal reading of the proposed rule might result in their removal from the List of Coast

[1] See *Notice of Proposed Rule Making*, PR Docket No. 84-938, released October 4, 1984 (FCC 84-466), 49 FR 40193.

[2] Detailed provisions are contained in CCITT Recommendation D. 90/F. 111, *Charging, Accounting and Refunds in the Maritime Mobile Service and Maritime Satellite Service*. Article 66 makes this recommendation binding.

Stations if they refuse to accept an AAIC under any circumstances. They pointed out that some ships and some AAIC's do not pay their bills and that a coast station should not be required to accept traffic from a known bad credit risk. We concur with the views of these commenters. We did not intend to require coast stations to accept bad credit risks. The concern arises from the use of the word "accept" in the proposed rule. As the text of the Notice indicates, however, our intention was to remove from the list only those coast stations which categorically declined to "recognize" AAIC's and which required the opening of a local account by tariff. We have revised the wording of the final rule to resolve this ambiguity.

7. In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), we certify that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The United States and its coast stations are currently subject to international accounting procedures. The proposed rule provides that any U.S. coast station which does not wish to comply may simply elect not to be included in the international List of Coast Stations.

8. The amendments contained herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements; and will not increase or decrease burden hours imposed on the public.

9. Accordingly, it is ordered, that under the authority contained in sections 4(i) and 303 (c) and (r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303 (c) and (r), the Commission's rules are amended as set forth in the attached Appendix, effective July 1, 1985.

10. It is further ordered, that a copy of this Report and Order shall be sent to the Chief Counsel for Advocacy of the Small Business Administration.

11. It is further ordered, that this proceeding is terminated.

12. Regarding questions on matters covered in this document contact Robert DeYoung (202) 632-7175.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 81 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 81 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 49 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609.

2. Section 81.179 is amended by adding a new paragraph (f) to read as follows:

§ 81.179 Message charges.

* * * * *

(f) In order to be included in the ITU List of Coast Stations public coast stations must recognize international Accounting Authority Identification Codes (AAIC) for purposes of billing and accounts settlement in accordance with Article 66 of the international Radio Regulations. Stations which elect not to recognize international AAIC's will be removed from the international List of Coast Stations.

[FR Doc. 85-13395 Filed 6-3-85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 97

Spread Spectrum Techniques in the Amateur Radio Service

AGENCY: Federal Communications Commission.

ACTION: Final rules.

SUMMARY: This document amends the Technical Regulations and Operating Requirements and Procedures governing the Amateur Radio Service to authorize spread spectrum transmissions. Action has been taken in order to provide licensees in the Amateur Radio Service with the opportunity to experiment with and take advantage of spread spectrum communication systems.

EFFECTIVE DATE: June 1, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Dr. Michael Marcus, Chief, Technical Analysis Division, Office of Science and Technology, Washington, DC 20554, (202) 632-7040.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 97

Radio, Modulation techniques, Spread spectrum.

Report and Order (Proceeding Terminated)

In the matter of Amendment of Parts 2 and 97 of the Commission's Rules and Regulations to authorize spread spectrum techniques in the Amateur Radio Service; Gen. Docket No. 81-414; FC 85-246.

Adopted: May 9, 1985.

Released: May 24, 1985.

By the Commission.

Introduction

1. The Commission adopted a *Notice of Inquiry and Proposed Rule Making* ("Notice") on 30 June 1981 on its own motion [1] proposing changes in its Rules and Regulations to permit the use of spread spectrum emissions [2] in the Amateur Radio Service. Comments were received until 1 March 1982 and reply comments until 15 April 1982. In this *Report and Order* we are adopting our proposals as modified below and terminating the proceeding.

2. It is the Commission's intent to provide licensees in the Amateur Radio Service with the opportunity to experiment with and take advantage of this technology which has been, until now, almost entirely limited to costly military systems. Spread spectrum transmissions have been implicitly prohibited by Commission's Rules without regard to the potential benefits which might accrue to the public interest from their use. These benefits may include:

- Reduced power density thus reducing interference to narrow band communication systems;
- Significant improvements in communication under conditions with poor signal to interference ratio;
- Improved communication performance in selective fading and multipath environments;
- Multiple, nearly independent communication channels functioning simultaneously in the same spectrum.

The final rules adopted today authorize amateurs to develop, test, and operate low cost spread spectrum systems. This action is consistent with the basis and purpose of the Amateur Radio Service expressed in § 97.1 of the Rules. By removing regulatory barriers to innovation, we believe that technical advances in radio technology can be stimulated, forwarding our goals as stated in sections 7(a) and 303(g) of the

[1] See *Notice of Proposed Rule Making*, 87 FCC 2nd 972 (1981), 46 FR 49617 (7 October 1981).

[2] Spread spectrum systems were originally developed for military applications where covertness and jam resistance were sought. In a spread spectrum system, an information signal is combined with a much wider bandwidth noise-like signal to yield a transmitted signal which is both broad band and noise-like. At the receiver, a copy of the original noise-like signal is used to derive the information signal. Because the energy of the transmitted signal is dispersed in the spreading process, it is less likely to cause interference in narrowband receivers than a conventional signal of the same power. For further information, *see* "The ARRL Handbook for the Radio Amateur (1985 edition)," pp. 21-6 through 21-9. *See also* Spread Spectrum Techniques, Report 651-1, CCIR Volume 1, Kyoto, 1982.

Communications Act of 1934, as amended.

3. While this proceeding deals only with the use of spread spectrum transmissions in the Amateur Radio Service, we expect that the experience gained, especially on the subject of compatibility between spread spectrum transmissions and conventional narrow band systems, can be used in our more general rule making dealing with spread spectrum[3] and will be a stimulus to the general radio technology community.

Discussion

4. Commenting parties focused primarily on the issues identified in the questions posed in the Notice. These dealt with interference and monitoring. In addition, comments were received dealing with frequencies available and eligibility of licensees to use spread spectrum transmissions.

5. *Intra-service interference.* Concerns were raised by commentors about the potentials for extensive, broadband interference from spread spectrum transmissions. Mathematical modeling and various experiments[4][5][6][7][8][9] indicate that, in some cases, there is a risk of causing intra-service interference. However, they also indicate that there are conditions under which spread spectrum transmissions can be compatible with existing modes of communication. We believe that amateurs should be permitted the freedom to experiment and to add to the body of knowledge on this subject. The Amateur Radio Service has a long history both of experimentation and frequency sharing among licensees. We believe that this tradition is adequate to prevent intra-service interference in most cases. However, to emphasize both the experimental nature of spread spectrum as well as some of the potential benefits associated with it (see paragraph 2), we are authorizing such transmissions on the condition that they not cause harmful interference to and accept all interference from stations operating with emissions previously authorized. Additionally, we are persuaded by the comments that the broad allocations to the Amateur Radio Service above 420 MHz lend themselves better to power dispersing techniques than lower frequency bands, thus reducing the interference potential of spread spectrum transmissions. (See paragraph 12.) Therefore, frequency bands above 420 MHz will be authorized.

6. *Inter-service interference.* The National Association of Broadcasters (NAB) raised the subject of interference to television channel 2 (54–60 MHz) related to spread spectrum operation in the adjacent band (50–54 MHz) allocated to the Amateur Radio Service. NAB's principal concern was that uncontrolled amateur transmissions might fall outside the allocated band into channel 2. The Commission believes that NAB's concerns are not well founded. First, rather simple transmitter output filters can be used by amateur licensees to prevent positively out of band emissions. Second, licensees in the Amateur Radio Service have had no significant history of operating outside the allocated bands. However, NAB's concerns are moot, as the Commission is not now authorizing spread spectrum transmissions in the 50–54 MHz band. In other frequency bands where the Amateur Radio Service has successfully shared allocations with different services, we expect no worsening of interference since the power density associated with spread spectrum transmission is much lower than the power density from currently existing narrow band transmissions having the same total effective radiated power.

7. *Monitoring.* Several parties expressed concern that the Commission and amateur licensees might not be able to monitor readily the station identification and content of spread spectrum transmissions. In PR Docket No. 81–699, the Commission dealt with the related matter of non-standard digital codes in the Amateur Radio Service.[10] In that *Report and Order* we stated,

> In balancing our objectives of encouraging new technologies against ensuring our enforcement capability, it must be recognized that there is an incompatibility between authorizing experimentation with 'exotic' technologies and the employment of channel monitoring as an enforcement tool. Our ability to verify that the content of messages complies with our rule requirements will be hindered by the broad relaxation of regulatory constraints that we are ordering in this proceeding. However, the Commission [agrees] . . . that special provisions we are including in the final rules, as well as existing provisions that identification be made in plain English or the international Morse code, should, when combined with the zealous effort of the amateur community to protect their allocated frequency bands, provide adequate protection against unauthorized operation in the service.

In this matter, we are authorizing a new "exotic" technology, spread spectrum, with certain constraints intended to reduce the conflict between experimentation and monitoring. These are requiring station identification that can be received with common narrow band receivers (see paragraph 9) and limiting the spreading sequences and methods (see paragraph 10).

8. We recognized that more detailed standards than those given in the adopted rules are needed for amateur interoperability and self-monitoring on a convenient basis. We are reluctant to adopt more detailed monitoring standards as they might inhibit experimentation. However, we are delaying the effective date of the rule change by one year in order to give the amateur community time to develop initial voluntary interoperability standards as they have done recently in packet radio. In this interim period we are continuing our policy of granting STA's to those who wish to experiment in this area.

9. *Station identification.* As in the case of unspecified digital codes discussed in Docket No. 81–699, common narrow band methods of station identification will be required. Based upon our experience with Del Norte,[11] we have added an additional option for spread spectrum transmissions. Stations will be permitted to identify by varying the emission while in the spread spectrum mode of operation so that CW, SSB, and/or narrow band FM receivers, which might be victims of interference, can receive the station identification.

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[3] *See Notice of Inquiry* [in GEN Docket No. 81–413], 87 FCC2d 876, 46 FR 51259 [19 October 1981], and *Further Notice of Inquiry and Notice of Proposed Rule Making*, 49 FR 21951 [24 April 1984]. The *Further Notice* proposes to authorize spread spectrum transmissions in three contexts: certain law enforcement applications, low power unlicensed [Part 15] devices above 70 MHz, and moderate power devices in three ISM bands.

[4] Feinstein, Hal and Paul Rinaldo, AMRAD Report to the FCC on Spread Spectrum Experiments, 3 October 1983.

[5] Report of Experience of Del Norte Technology, Inc., attached to Reply Comments of Del Norte Technology, Inc. in GEN Docket No. 80–135 [In the matter of revisions of Parts 2 and 90 of the Commission's Rules and Regulations to permit inland assignment of frequencies in the 420–450 MHz band for non-Government radiolocation, 47 FR 34415 [9 August 1982]].

[6] Comments of the American Radio Relay League in Response to Further Notice of Proposed Rule making, Appendix A, in GEN Docket No. 80–135.

[7] Report of Brian Elliott, Ph.D., on Hewlett-Packard's experience with wireless data terminals, 26 October 1984, attached to the reply comments of Hewlett-Packard Company in GEN Docket No. 81–413.

[8] Memorandum to Chief, Research and Analysis Division from Chief, Research Branch on the subject of Del Norte Spread Spectrum Demonstration on January 29, 1981, dated 19 February 1981.

[9] Considerations of Interference from Spread-spectrum Systems to Conventional Voice Communications Systems, Report 652, CCIR Volume 1, Kyoto, 1982.

[10] *See* PR Docket No. 81–699, In the matter of the use of additional digital codes in the Amateur Radio Service, 47 FR 42751 [29 September 1982].

[11] *See* footnote [5].

We expect amateurs transmitting spread spectrum to select the frequency used for narrow band station identification taking into consideration the need to minimize interference to other amateur operations and to facilitate reception of station identification by other amateurs.

10. *Spreading sequences and methods.* Section 97.117 of our Rules prohibits "the transmission by radio of messages in codes or ciphers in domestic and international communications to or between amateur stations." The intent behind this rule is to prohibit encrypted communications in this service. A spread spectrum transmission that uses an unknown spreading sequence is intrinsically an encrypted communication. We proposed to allow as spreading sequences only the output of one of three specified linear feedback shift registers.[12] Thus a party interested in monitoring a transmission could do so by a short process of elimination with appropriate equipment. In order to eliminate ambiguity in the implementation of spread spectrum that might complicate monitoring, we have added a few details beyond what was given in the notice.[13] We are satisfied that our limitations of spreading sequences are sufficient, for domestic purposes, to see that spreading functions remain within the realm of codes and do not overstep the bounds of becoming ciphers which are prohibited by § 97.117. Use of additional, more complex spreading sequences including Gold codes suggested in the Comments by Leon Scaldeferri, overstep the bounds of becoming a cipher and, therefore, are not authorized. We proposed no limitations on spreading methods. However, after further consideration, we feel that a spread spectrum transmission that uses a complex method of dispersing the transmitted energy is also intrinsically an encrypted communication and, thus, oversteps the bounds of becoming a cipher. Therefore, the final rules limit spreading methods to frequency hopping and direct sequence only.

[12] Information about linear feedback shift registers may be found in: Dixon, R.C., *Spread Spectrum Systems*, Chapter 3, John Wiley & Sons, Inc., New York, 1976; Pickholz, Raymond L., Donald L. Schilling, and Laurence B. Milstein, "Theory of Spread Spectrum Communications—A Tutorial", *IEEE Transactions on Communications*, Vol. COM-30, pp. 855–884, May 1982.

[13] These details describe how the spreading sequences are used to increase the information rate of the signal to be transmitted. In the case of direct sequence transmissions, the licensee may select a value of m to be used in m-ary modulation. In the case of frequency hopping, the licensee may choose the number of frequencies, x. (See the new Section 97.71(d) in the Appendix.) While both m and x are the choices of the licensees, their values can be determined by observing transmitted signals.

11. *International communication.* In addition to the clear message requirements of § 97.117 of our Rules, the ITU Radio Regulations require that all international communication between radio amateurs be in plain language.[14] The Commission has, in the past, applied a more stringent test of what is and what is not plain language for purposes of international communications than for domestic communications. In Docket No. 81–899, the Commission recognized the desirability of international communication, but limited the codes authorized to internationally recognized codes recommended by the CCITT. Later, AMTOR, a commonly recognized amateur version of a CCIR recommended communication protocol, was authorized.[15] Until such time as spreading functions and spread spectrum transmissions become well recognized internationally, the Commission cannot consider authorizing its use for general international communication. Accordingly, we are authorizing spread spectrum transmissions for domestic communication. However, in the future the U.S. Government may conclude arrangements with other administrations as permitted by the ITU Radio Regulations.[16]

12. *Frequencies.* In the *Notice*, we proposed that spread spectrum transmissions be limited to the 50, 144, and 220 MHz bands. E. Miles Brown and Luther G. Schimpf pointed out in their comments that these bands would allow only about 30 dB effective reduction in power density due to their limited bandwidth, probably not enough to prevent interference from strong spread spectrum transmissions in most cases. John A. Carroll observed in his comments that the large amateur frequency allocations above 420 MHz are more attractive places for spead spectrum operations because they provide significant additional bandwidth over which to disperse the transmitted power. For these reasons, we are modifying our original proposal and authorizing spread spectrum transmissions in all amateur allocations above 420 MHz except as previously noted.

13. *Eligibility.* In the *Notice*, we proposed to limit eligibility for spread spectrum transmissions to Advanced and Amateur Extra licensees. Several parties commented that this was overly restrictive and unjustified. We agree with these observations and are authorizing in the Final Rules spread spectrum transmissions for all licensees eligible for the frequencies where spread spectrum is permitted.

[14] No. 2732 of the ITU Radio Regulations, Geneva, 1979.

[15] *See* RM-4122, *Order*. In the matter of Authorization of the digital code "AMTOR" for use by stations in the Amateur Radio Service, 48 FR 7457 (1983).

[16] No. 2734 of the ITU Radio Regulations, Geneva, 1979.

Conclusion

14. Accordingly, it is ordered that Part 97 of the Commission's Rules and Regulations, 47 CFR Part 97, is amended as set forth in the Appendix effective 1 June 1986. It is further ordered that this proceeding is terminated. This action is taken pursuant to authority contained in Sections 4(i) and 303 of the Communications Act, as amended. Further information on this matter may be obtained from Dr. Michael Marcus, Chief, Technical Analysis Division, Office of Science and Technology, Washington, DC 20554, telephone (202) 632–7040.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART—[AMENDED]

Part 97 of the Commission's Rules and Regulations, 47 CFR Part 97, is amended as follows:

1. The authority citation for Part 97 continues to read:

Authority: Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.

2. In § 97.3, Definitions, add a new paragraph (cc) as follows:

§ 97.3 Definitions.

* * * * *

(cc) *Spread spectrum transmission.* An information bearing transmission in which information is conveyed by a modulated RF carrier and where the bandwidth is significantly widened, by means of a spreading function, over that needed to transmit the information alone.

3. Add a new § 97.71, Spread spectrum communications, as follows:

§ 97.71 Spread spectrum communications.

(a) Subject to special conditions in paragraphs (b) through (i) of this section, amateur stations may employ spread spectrum transmissions to convey information containing voice, teleprinter, facsimile, television, signals for remote control of objects, computer programs, data, and other communications including communication protocol elements.

Spread spectrum transmissions must not be used for the purpose of obscuring the meaning of, but only to facilitate communication.

(b) Spread spectrum transmissions are authorized on amateur frequencies above 420 MHz.

(c) Stations employing spread spectrum transmissions shall not cause harmful interference to stations of good engineering design employing other authorized emissions specified in the table. Stations employing spread spectrum must also accept all interference caused by stations of good engineering design employing other authorized emissions specified in the table. (For the purposes of this subparagraph, unintended triggering of carrier operated repeaters is not considered to be harmful interference. Nevertheless, spread spectrum users should take reasonable steps to avoid this situation from occurring.)

(d) Spread spectrum transmissions are authorized for domestic radio communication only (communication between points within areas where radio services are regulated by the U.S. Federal Communications Commission), except where special arrangements have been made between the United States and the administration of any other country concerned.

(e) Only frequency hopping and direct sequence transmissions are authorized. Hybrid spread spectrum transmissions (transmissions involving both spreading techniques) are prohibited.

(1) Frequency hopping. The carrier is modulated with unciphered information and changes at fixed intervals under the direction of a high speed code sequence.

(2) Direct sequence. The information is modulo–2 added to a high speed code sequence. The combined information and code are then used to modulate a RF carrier. The high speed code sequence dominates the modulation function, and is the direct cause of the wide spreading of the transmitted signal.

(f) The only spreading sequences which are authorized must be from the output of one binary linear feedback shift register (which may be implemented in hardware or software).

(1) Only the following sets of connections may be used:

Number of stages in shift register	Taps used in feedback
7	[7,1]
13	[13,4,3,1]
19	[19,5,2,1]

(The numbers in brackets indicate which binary stages are combined with modulo-2 addition to form the input to the shift register in stage 1. The output is taken from the highest numbered stage.)

(2) The shift register must not be reset other than by its feedback during an individual transmission. The shift register output sequence must be used without alteration.

(3) The output of the last stage of the binary linear feedback shift register must be used as follows:

(i) For frequency hopping transmissions using x frequencies, n consecutive bits from the shift register must be used to select the next frequency from a list of frequencies sorted in ascending order. Each consecutive frequency must be selected by a consecutive block of n bits. (Where n is the smallest integer greater than $\log_2 x$.)

(ii) For a direct sequence transmissions using m-ary modulation, consecutive blocks of $\log_2 m$ bits from the shift register must be used to select the transmitted signal during each interval.

(g) The station records shall document all spread spectrum transmissions and shall be retained for a period of one year following the last entry. The station records must include sufficient information to enable the Commission, using the information contained therein, to demodulate all transmissions. The station records must contain at least the following.

(1) A technical description of the transmitted signal.

(2) Pertinent parameters describing the transmitted signal including the frequency or frequencies of operation and, where applicable, the chip rate, the code, the code rate, the spreading function, the transmission protocol(s) including the method of achieving synchronization, and the modulation type;

(3) A general description of the type of information being conveyed, for example, voice, text, memory dump, facsimile, television, etc.;

(4) The method and, if applicable, the frequency or frequencies used for station identification.

(5) The date of beginning and the date of ending use of each type of transmitted signal.

(h) When deemed necessary by an Engineer-in-Charge of a Commission field facility to assure compliance with the rules of this part, a station licensee shall:

(1) Cease spread spectrum transmissions authorized under this paragraph;

(2) Restrict spread spectrum transmissions authorized under this paragraph to the extent instructed;

(3) Maintain a record, convertible to the original information (voice, text, image, etc.) of all spread spectrum communications transmitted under the authority of this paragraph.

(i) The peak envelope power at the transmitter output shall not exceed 100 watts.

4. In § 97.84, Station identification, add new paragraph (g)(5) as follows:

§ 97.84 Station identification.

* * * * *

(g) * * *

(5) When transmitting spread spectrum, by narrow band emission using the method described in paragraphs (g)(1) or (g)(2) of this section, narow band identification transmissions must be on only one frequency in each band being used. Alternatively, the station identification may be transmitted while in spread spectrum operation by changing one or more parameters of the emission in a fashion such that CW or SSB or narrow band FM receivers can be used to identify the sending station.

* * * * *

[FR Doc. 85–13396 Filed 6–3–85; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 1–18, Notice 26; and Docket No. 74–14, Notice 40]

Federal Motor Vehicle Safety Standards Controls and Displays

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule; response to petitions for reconsideration and petitions for rulemaking.

SUMMARY: This notice responds to three petitions for reconsideration and two related petitions for rulemaking concerning an amendment to Standard No. 101, *Controls and Displays*, published in July 1984 (49 FR 30191). That notice amended several of the identification requirements of the standard for the purposes of improving safety by providing for the use of the easily recognizable international symbols and relieving unnecessary restrictions on manufacturers by providing additional flexibility in their ability to identify controls and displays. In response to one of the petitions, the agency has eliminated a requirement that the horn control symbol be perceptually upright. In response to another petition, the agency is

permitting use of the words "FASTEN BELTS" or "FASTEN SEAT BELTS" as an alternative to the seat belt warning symbol in informational readout displays. A conforming amendment is being made to Standard No. 208, *Occupant Crash Protection*. The petitions are otherwise denied. However, in the near future, the agency plans to publish a separate notice of proposed rulemaking which will fully address the issue of the use of telltales in informational readout displays, one of the major issues raised by one of the petitions for reconsideration.

DATES: The amendments are effective on June 4, 1985. Any petition for reconsideration must be received by July 5, 1985.

ADDRESSES: Any petition for reconsideration should refer to the docket and notice number and be submitted by July 5, 1985 to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur H. Neill, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202–426–1750).

SUPPLEMENTARY INFORMATION: On July 27, 1984, NHTSA published in the Federal Register (49 FR 30191) a final rule amending Standard No. 101, *Controls and Displays*. The notice amended several of the identification requirements of the standard for the purposes of improving safety by providing for the use of easily recognizable, international symbols and relieving unnecessary restrictions on manufacturers by providing additional flexibility in their ability to identify controls and displays.

The final rule followed two notices of proposed rulemaking (NPRM's) to amend Standard No. 101. As discussed in the July 1984 notice, the final rule did not address all of the amendments proposed by the two notices. The notice explained that the agency was postponing a final decision on some of the proposed amendments pending completion of an ongoing examination by the agency of issues relating to Standard No. 101. The notice stated that the agency's examination of the standard was expected to result in a new notice of proposed rulemaking.

The agency received three timely petitions for reconsideration of the final rule. The petitions requested changes in the requirement that the horn control on passenger cars and other vehicles with a gross vehicle weight rating (GVWR) of 10,000 pounds of less be identified by the International Standards Organization (ISO) horn symbol. Some of the petitions also requested that the agency adopt some of the amendments that were proposed by the two NPRM's but not adopted or addressed in the July 1984 final rule, rather than waiting for the completion of the agency's examination of issues relating to Standard No. 101.

The agency also received two petitions for reconsideration of the final rule, after the closing date for such petitions. Under the agency's procedural rules, such petitions are considered petitions for rulemaking rather than petitions for reconsideration. See 49 CFR 553.35(a).

This notice responds to all five petitions. The notice will first address the issues raised by the petitions for reconsideration with respect to the horn control identification requirement. It will then consider the requests to adopt at this time some of the additional proposals on which action has been deferred. Finally, the notice will address the two petitions for rulemaking.

Horn Control

The July 1984 final rule requires that the horn control on passenger cars and other vehicles with a GVWR of 10,000 pounds or less be identified by the ISO horn symbol, a picture of a horn or bugle. The agency noted that it has received a number of complaints over the years about difficulty in locating the horn, especially in panic situations. The agency noted that since location of the horn is not standardized either by industry practice or by regulation, identification of the horn can provide important safety benefits at a minimal cost.

As with the identification required for most other controls, the rule specified that the horn symbol must be perceptually upright. In response to comments on the NPRM that it is impossible for symbols on the steering wheel to be perceptually upright at all times, the agency included a provision that the horn symbol need be perceptually upright only when the vehicle, aligned to the manufacturer's specification, has its wheels positioned for the vehicle to travel forward, i.e., when the steering wheel is centered. The rule excluded narrow ring-type horn controls from the identification requirement since there may not be sufficient space on or adjacent to such controls for the horn symbol.

A petition for reconsideration submitted by Toyota requested that the agency eliminate the perceptually upright requirement for the horn control symbol. The petitioner argued that the provision for a horn control symbol, without the perceptually upright requirement, would accomplish the agency's intentions for accident avoidance. That company also stated that it is difficult to place a perceptually upright symbol on the type of narrow button that is typically used on a vertical spoke of a steering wheel hub. Toyota noted that while the symbol could be located adjacent to the control in such a situation, the cost would be three times more than if the symbol were simply located on the button.

After carefully evaluating Toyota's arguments, the agency has decided to drop the perceptually upright requirement for the horn control symbol. This decision was based on two considerations. First, unlike some symbols which must be properly oriented in order to be understood, the horn symbol is readily recognizable in any orientation. Second, a horn symbol may be printed larger and therefore be more easily perceived if it can be oriented along the longer axis of the horn button, spoke of the wheel, or along the rim of the steering wheel.

A petition for reconsideration submitted by Mercedes-Benz requested that the agency exclude passenger car horn controls located in/on the steering wheel hub from the identification requirement, provided that the horn control can be activated by pressing anywhere on the hub surface, and that there are no other controls incorporated in the hub. The petitioner argued that complaints about difficulty in finding the horn control must be attributed to controls located on stalks or other areas of the steering column rather than in the usual and conventional location in the steering wheel hub. Mercedes argued that the location in the steering wheel hub is the most obvious and the nearest and quickest to reach and to activate in an emergency situation, and that even a driver who is not familiar with a car will intuitively expect the horn control to be in the hub and check there first.

After carefully evaluating Mercedes' arguments, the agency declines to grant that company's request. The preamble to the final rule raised many concerns that are not answered by Mercedes' amendment:

> For other than heavy duty vehicles, the agency does not agree that identification is unnecessary when the horn control is located on or near the steering wheel. First, horn control location within the steering wheel area may vary significantly from vehicle to vehicle, making it difficult to find the horn control in an emergency situation. Second, to the extent that manufacturers locate the horn

control elsewhere, e.g., on various stalks, drivers are less likely to expect the horn in what was once the traditional location. Moreover, the absence of a horn symbol in the steering wheel area will alert drivers to look elsewhere. Finally, controls other than the horn, such as a cruise control, may be located on or near the steering wheel, making it more difficult to find a horn control in that same general area.

The primary concern is that as manufacturers place horn controls in areas other than what was once the traditional location, drivers' expectations as to location also change. For example, a driver whose last car had the horn control on the stalk may check that location first when driving an unfamilar car. Younger drivers may never have encountered a horn control on the steering wheel hub. Also, in the absence of a horn symbol at the steering wheel center, drivers may decide they should look elsewhere for the horn control rather than trying to activate a nonexistent control.

Suggestions for Additional Amendments

Two petitions for reconsideration requested that the agency adopt certain amendments to Standard No. 101 at this time, rather than awaiting completion of its examination of issues relating to the standard. A petition submitted by BMW requested three amendments: (1) Adopt proposed language to permit the use of telltales in informational readout displays, (2) permit, as proposed, the use of the words "FASTEN BELTS" or "FASTEN SEAT BELTS" as an alternative to the seat belt warning symbol in informational readout displays, and (3) permit sequencing of messages in informational readout displays in the event of a need to display more than one telltale at the same time. Mercedes-Benz requested that the agency (1) permit, as proposed, use of the ISO brake failure symbol instead of the word "BREAK" for brake displays, and (2) permit use of the ISO antilock symbol instead of the words "ANTILOCK" or "ANTI-LOCK" in vehicles having separate indicator lamps for that function.

The amendments requested by BMW all relate to the issue of placing telltales in informational readout displays. As discussed below, the agency has decided not to adopt the specific amendments previously proposed on this subject. This decision is largely based on the agency's analysis of comments provided by a number of manufacturers. The forthcoming separate NPRM will address the problems identified by the commenters.

The agency has also decided to adopt a final rule to permit, as proposed, the use of the words "FASTEN BELTS" or "FASTEN SEAT BELTS" as an alternative to the seat belt warning symbol in informational readout displays. The agency has decided not to adopt the other amendments requested by the BMW and Mercedes petitions. These decisions are also discussed below.

Standard No. 101's light intensity requirements for displays differ depending upon whether the display is a gauge or a telltale *and* whether the display is an informational readout display.[1] The background for this latter distinction is as follows. The 1976 NPRM for the current version of Standard No. 101 did not distinguish between traditional displays and informational readout displays. That NPRM proposed the following requirements for all displays: (1) Light intensities for gauges and their identification must be continuously variable from a position at which either there is no light emitted or the light is barely discernible to a driver who has adapted to dark ambient roadway conditions to a position providing illumination sufficient for the driver to identify the display readily under all daytime and nighttime conditions, and (2) The light intensity of each telltale shall not be variable and shall be such that, when activated, that telltale and its identification are visible to the driver under all daytime and nighttime conditions. See 41 FR 46460–46462.

The 1978 final rule adopted by the agency included language very similar to the proposed language in these areas. However, that final rule also added the term "informational readout display" and specified a number of requirements for informational readout displays. Among other things, the final rule included a requirement that informational readout displays must have at least two light intensity levels, a higher one for daytime use and a lower one for nighttime use. While the preamble did not discuss the light intensity requirements for informational readout displays, the preamble did explain that the agency was adopting a requirement to allow the use of words or symbols to permit the continued development of informational readout displays. See 43 FR 27541–27544.

Subsequent to that 1978 final rule, the agency received a petition for rulemaking from General Motors to permit incorporation of telltales in informational readout displays. In response to that petition, the agency published an NPRM in the **Federal Register** (47 FR 4541) on February 1, 1982. As discussed by that notice, section S5.3.3 of Standard No. 101 requires that the light intensity of telltales be invariable and must be sufficient to permit drivers to see them under any lighting conditions. The purpose of that requirement is to ensure that telltales are visible to the driver at all times when the vehicle is being operated. The same section, however, requires that informational readout displays have variable light intensity. Specifically, they must have at least two light intensity values, a relatively high one for daytime use and a relatively low one for nighttime use. The notice concluded that even though other parts of the standard were written to encourage the use of informational readout displays, the standard's light intensity requirements prevent informational readout displays from being used for telltales.

In order to resolve the discrepancy and permit the use of telltales in informational readout displays, the agency proposed the following requirement:

> Telltales and gauges incorporated into informational readout displays—
>
> (a) Shall have not less than two levels of light intensity, a higher one for day and a lower one for nighttime conditions.
>
> (b) In the case of telltales and gauges not equipped with a variable light intensity control, shall have a light intensity at the higher level provided under paragraph (a) of this section whenever the headlamps are not illuminated.
>
> (c) In the case of telltales and gauges equipped with a variable light intensity control, shall be visible to the driver under all daytime and nighttime conditions when the illumination level is set to its lowest level.

Two comments received in response to the February 1982 notice questioned the conclusion that the standard's light intensity requirements prevent informational readout displays from being used for telltales. Ford commented that it has interpreted the standard to permit the use of telltales with single intensity illumination, as required for all telltales by section S5.3.3, when incorporated into informational readout displays. VDO–ARGO simply stated that it does not believe that the current

[1] By way of background information, the term "display" in Standard No. 101 refers to gauges and telltales. "Telltale" is defined as a display that indicates, by means of a light-emitting signal, the actuation of a device, a correct or defective condition, or a failure to function. The term "gauge" is defined as a display listed in the standard (S5.1 or Table 1) that is not a telltale. All displays in Standard No. 101 are thus gauges or telltales. Informational readout displays are a type of display which use technologies such as light-emitting diodes or liquid crystals, and which may display one or more than one type of information or message. As a type of display, the term informational readout display necessarily refers to gauges and/or telltales.

regulations preclude the installation of telltales within an informational readout display.

Commenters expressed a number of concerns about the specific proposal. Some of these related to the proposed requirement that telltales and gauges incorporated into informational readout displays be visible to the driver under all daytime and nighttime conditions when the illumination level is set to its lowest level. Chrysler states that its experience indicates that any illumination level which is bright enough to be visible to the driver during the day would be so bright at night that it would be unacceptable to most drivers and may be a safety hazard. That company's comments indicated that, because of this problem, it may be impossible for manufacturers to meet a requirement that telltales and gauges in informational readout displays always be visible.

According to Chrysler, it is current practice to provide two levels of illumination by means of the headlamp switch, headlamps off—daytime level, headlamps on—nighttime level. A limitation of this arrangement, however, is that the display illumination is switched from the daytime to the nighttime level whenever the headlamps are turned on, regardless of ambient lighting conditions. Thus, the minimum level of display illumination intensity for night driving is established during daytime conditions with headlamps on, with the result that the display may not be visible to the driver. According to Chrysler, driving with headlamps on is not an infrequent occurrence, even in the presence of bright sunlight. That commenter noted that while it might be possible to incorporate a photosensitive device to reliably sense daytime and nighttime conditions, neither it, nor to its knowledge any other company, had been able to develop a device which will function properly under all conditions. Similar comments were also received from other manufacturers.

Ford expressed concern that the proposed language would cause changes in the Ford electronic instrument panels now in production for three model years by prohibiting single high intensity electronic telltales. (As noted above, Ford has assumed that the standard permits the use of telltales with single intensity illumination when incorporated into informational readout displays.) Volkswagen also expressed concern that single intensity telltales would be prohibited. That company stated that some emergency warning telltales should be sufficiently obvious and blatant to immediately attract the driver's attention, which is best accomplished by single intensity telltales.

After carefully considering the comments, the agency has decided not to adopt the requirements as proposed. The agency agrees that single intensity telltales should not be prohibited in informational readout displays, since such telltales may be optimally effective for attracting attention. The agency recognizes the problems cited by Chrysler concerning the proposed requirement that gauges and telltales incorporated into informational readout displays be visible under all daytime and nighttime driving conditions. A requirement that gauges and telltales be visible under all lighting conditions when the light intensity is set at its lowest level could result in problems of glare at night, particularly for gauges, since they are ordinarily activated. On the other hand, the agency is concerned, in the absence of such a requirement, about the possibility of drivers inadvertently turning off important safety telltales, such as the brake warning telltale, by driving with headlamps on during the daytime.

The agency tentatively agrees in a general way with the view expressed by some commenters that greater flexibility for manufacturers is appropriate in this area. This issue will be addressed by the forthcoming separate NPRM.

As noted above, some manufacturers have interpreted Standard No. 101's light intensity requirements for telltales and gauges incorporated into informational readout displays differently than the agency and have produced vehicles for several years with informational readout displays which incorporate telltales. Ford, for example, has interpreted the standard to permit the use of telltales with single intensity illumination when incorporated into informational readout displays. Until the agency has completed the rulemaking action which is the subject of the forthcoming separate NPRM, it will not take any enforcement action against manufacturers under section S5.3.3 of Standard No. 101 on the basis of whether the light intensity of informational readout displays, including telltales and/or gauges incorporated into informational readout displays, is invariable or variable. The agency will continue to enforce the requirement that, when activated, telltales and their identification be visible to the driver under all daytime and nighttime conditions, as well as all other requirements of the standard.

As indicated above, BMW's petition requested that the agency permit, as proposed by the February 1982 NPRM, the use of the words "FASTEN BELTS" or "FASTEN SEAT BELTS" as an alternative to the seat belt warning symbol in informational readout displays. The NPRM explained that Standard No. 101 was expressly written to permit words in place of symbols in informational readout displays. Section S5.2.3 of the standard states that informational readout displays may be identified by the symbol designated in column 4 of Table 2 or by the word or abbreviation shown in column 3. While column 4 of Table 2 designates the seat belt warning symbol, column 3 of the table refers to FMVSS 208. That standard only permits the use of the words "FASTEN BELTS" or "FASTEN SEAT BELTS" for vehicles manufactured before September 1, 1980. The NPRM stated that a conforming amendment was being proposed to correct that anomaly and permit those words to be used for the seat belt telltale incorporated in an informational readout display.

Commenters generally supported this proposal. While the issue of the circumstances under which telltales may be incorporated into informational readout displays will remain unresolved until the agency completes the rulemaking action noted above, the agency considers it appropriate to make this amendment at this time. The agency has determined that the standard should permit specified words to be used in place of the seatbelt warning symbol, in informational readout displays. The agency is accordingly adopting the proposal as a final rule at this time.

In its petition for reconsideration and a related request for interpretation, BMW expressed concern at Standard No. 101's requirements for informational readout displays where more than one telltale occupies the same space. This concern arises from the fact that if the underlying conditions for activation of more than one such telltale occur at the same time, information for messages beyond the first can be provided to drivers only if some method of either sequencing messages or cancelling earlier messages is provided. BMW's petition for reconsideration requested that sequencing of messages be permitted in circumstances where there is a need to display more than one telltale at the same time. BMW's request for interpretation asked whether the standard already permits such sequencing of telltales. That company also requested clarification of an earlier interpretation issued by the agency. BMW noted that the agency has concluded that telltales cannot be

cancellable since Standard No. 101 requires that (1) they must be visible to the driver under all daytime and nighttime conditions, and (2) they must not be variable in light intensity. BMW asked whether that requirement applies to all telltales or just those listed in the standard.

Standard No. 101's requirements for displays are only applicable to the displays listed in the standard. Section S5, *Requirements*, states that . . . each passenger car, multipurpose passenger vehicle and truck or bus less than 10,000 pounds GVWR with any display listed in S5.1 or in column 1 of Table 2, shall meet the requirements of this standard for the location, identification, and illumination of *such . . . display*." (Emphasis added.) Telltales are a type of display. The requirements of Standard No. 101 which prevent telltales from being cancellable are thus only applicable to telltales listed in the standard. Accordingly, Standard No. 101 does not prohibit telltales not listed in the standard from being cancellable.

BMW's question concerning whether Standard No. 101 permits sequencing of telltales is germane only if using informational readout displays as telltales is itself permissible since the sequencing of telltales in the same spot in a display necessitates application of that type of technology. The previously discussed enforcement policy permitting the use of informational readout displays as telltales makes that question now germane. There is no requirement in Standard No. 101, other than those relating to the use of informational readout displays as telltales, that precludes sequencing. Therefore, designs which use sequencing telltales in informational readout displays may be used for the duration of that enforcement policy.

The agency emphasizes, however, that its consideration of sequencing for the first time in the context of a rulemaking proceeding, i.e., the proceeding relevant to the separate forthcoming NPRM, has led to the identification of various safety concerns about that design. Those concerns will be discussed in that proposal.

As indicated above, Mercedes-Benz requested that the agency permit, as proposed, use of the ISO brake failure symbol instead of the word "BRAKE" for brake displays. The agency proposed adoption of this symbol in an NPRM published in the **Federal Register** (47 FR 49999) on November 4, 1982.

The notice explained that the requirements for a brake display are primarily included in Standard No. 105, *Hydraulic Brake Systems*, which is referenced by Standard No. 101. Under Standard No. 105, a manufacturer must provide a brake warning indicator lamp which activates under certain conditions, including (among others) specified types of gross loss of pressure and on application of the parking brake. The requirements may be met by a single common indicator lamp with a lens labeled "Brake", or by separate indicator lamps. Separate labeling requirements are provided for separate indicator lamps.

In proposing adoption of the ISO brake failure symbol, the agency noted that it is part of a family of brake symbols under development by that organization. The basic brake symbol can be described as a circle with parentheses, representing brake shoes, on each side. The symbol for brake failure includes an exclamation mark inside the circle.

Mercedes' petition cited the November 1982 NPRM for suggesting an anticipated safety benefit resulting from the fact that symbols convey information more quickly and with less chance of human error, particularly for the large foreign language speaking population, an anticipated cost benefit for manufacturers selling vehicles in and outside the United States, and promotion of international harmonization.

While the agency addressed most of the amendments proposed by the November 1982 NPRM in its July 1984 notice, it decided to include the issue of the brake failure symbol in its examination of issues relating to Standard No. 101. Since the agency has now reached a conclusion with respect to that issue, it will address the issue in this notice. As discussed below, the agency has decided not to adopt the brake failure symbol in place of the word "BRAKE".

In proposing adoption of the ISO brake failure symbol, the agency stated that symbols are adopted by the ISO only after extensive international testing as to recognizability and suitability. The November 1982 NPRM specifically requested comments on the recognizability of the brake failure symbol. The NPRM also requested comments on whether there should be a requirement for owner's manuals to explain the brake failure symbol.

While manufacturer comments supported adoption of the ISO brake failure symbol, the comments called into question the agency's statement about ISO testing as to recognizability. General Motors stated:

> One school of thought in the design of symbols holds that they should be immediately recognizable without training. This position led to the studies to which NHTSA alludes when saying that ISO symbols are only adopted "after extensive international testing as to their recognizability and suitability." However, our observation of recent ISO symbol development has revealed a tendency to agree upon symbols by consensus, without any testing to assure recognizability. Whether caused by a lack of funding for testing or by a shift in philosophy, the result is a greater probability that the symbols must be learned.

A study published by the Society of Automotive Engineers, Investigation into the Identification and Interpretation of Automotive Indicators and Controls, found the percentage recognition of statement and function of the ISO brake symbol to be only 26 percent and 21 percent, respectively, while the percentage recognition of statement and function of the word "Brake" are 87 percent and 52 percent, respectively. Given the extremely low percentage recognition for the ISO brake symbol compared to the word "Brake" and the importance for safety of drivers understanding the meaning of the brake indicator lamp, the agency does not consider it appropriate to adopt this particular ISO symbol, even if an explanation is provided in owner's manuals. Many drivers might not read their owner's manual, and drivers other than original owners would be still less likely to read or even have access to the owner's manual.

Mercedes also requested that that agency adopt a related symbol for an antilock system. That symbol is the same as the ISO brake failure symbol except that the exclamation mark is replaced by the letters ABS. Mercedes stated that the use of "ABS" as an abbreviation for "Antilock Braking System" is widespread and well known to the public and that, therefore, recognition problems are not to be expected. Mercedes did not provide any support for its contention that ABS is well known to the public as an abbreviation for antilock braking system. In any event, the agency did not propose this symbol and therefore, based on lack of notice, cannot consider the symbol for purposes of a final rule.

Petitions for Rulemaking

As indicated above, two petitions for reconsideration submitted to the agency after the closing date are being treated as petitions for rulemaking, in accordance with agency regulations.

A petition submitted by Fiat was largely along the lines of the request by Mercedes to exclude horn controls located on the steering wheel hub from the identification requirement. In addition to some of the same arguments

made by Mercedes, Fiat emphasized the agency's decision to exclude horns on heavy duty trucks from the requirement.

The agency does not agree that its decision with respect to heavy duty trucks necessitates the same decision for other vehicles. The location of horn controls on heavy duty trucks appears to be more standardized than for other vehicles. Also, the agency may adopt different requirements for different types of vehicles based on many considerations, such as different driver populations, difference in magnitude of a safety problem, etc.

The other petition was submitted by a private individual, Mr. C.R. Blydenburgh. That petitioner argued that the July 1984 final rule should be delayed pending rulemaking for standardized location of controls and displays, a subject which he cited as being included in NHTSA's five year plan published in 1979. The petitioner argued that such standardization of controls and displays is necessary to avoid driver confusion when driving different vehicles. The petitioner asserted that the extended use of international symbols is counterproductive in terms of safety as it fails to utilize two important human characteristics, habit and instinct. The petitioner did not, however, address any of the specific amendments made by the July 1984 final rule or the notice's discussion of those amendments, or offer any support for an allegation that the rule could adversely affect safety.

The agency rejects the petitioner's allegation that the rule could adversely affect safety, for the reasons discussed in the July 1984 notice. While the subject of standardized location of controls and displays was included in NHTSA's five year plan published in 1979, potential action on that subject is not relevant to the issuance of the July 1984 final rule. Thus, Mr. Blydenburgh's petition will be addressed separately at a subsequent date.

For the reasons discussed above, the petition submitted by Toyota is granted, the petition submitted by BMW is granted in part and denied in part, and the other petitions, except for Mr. Blydenburgh's for which action will be determined at a later date, are denied.

The amendments are effective immediately. The agency notes, however, that the requirement that horn controls be identified by the ISO horn symbol does not become mandatory until September 1, 1987. The agency finds good cause for an immediate effective date since the amendments relieve restrictions, while reducing compliance costs and having no adverse impacts on safety.

The agency has evaluated the economic and other effects of this final rule and determined that they are neither major as defined by Executive Order 12291 nor significant as defined by the Department's Regulatory Policies and Procedures. The agency has determined that the economic effects of this final rule are so minimal that a full regulatory evaluation is not required. Since the amendments relieve restrictions, they conceivably could result in some nonquantifiable cost savings.

In accordance with the Regulatory Flexibility Act, the agency has evaluated the effects of this action on small entities. Since the amendments impose no new requirements and do not result in any significant cost impacts, I certify that the amendments will not have a significant economic impact on a substantial number of small entities.

Finally, the agency has analyzed the effects of this action under the National Environmental Policy Act. The agency has determined that the final rule will not have a significant effect on the quality of the human environment.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, National Highway Traffic Safety Administration, Rubber and rubber products, Tires.

PART 571—[AMENDED]

In consideration of the foregoing, 49 CFR Part 571 is amended as follows:

1. The authority citation for Part 571 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

§ 571.101 [Amended]

1. S5.2.1.1 is revised to read as follows:

S5.2.1.1 The identification of the following need not appear to the driver perceptually upright:

(a) A master lighting switch or headlamp and tail lamp control that adjusts control and display illumination by means of rotation, or any other rotating control that does not have an off position.

(b) A horn control.

2. Table 2(a) is amended by revising the designation for identifying words or abbreviation for the Seat Belt Telltale, contained in column 3, to read:

Fasten Belts or Fasten Seat Belts. Also see FMVSS 208.

3. Table 2 is amended by revising the designation for identifying words or abbreviation for the Seat Belt Telltale, contained in column 3, to read:

Fasten Belts or Fasten Seat Belts. Also see FMVSS 208.

§ 571.208 [Amended]

1. The first sentence of S4.5.3.3(b) is revised to read as follows:

In place of a warning system that conforms to S7.3 of this standard, be equipped with the following warning system: At the left front outboard designated seating positions (driver's position), be equipped with a warning system that activates a continuous or intermittent audible signal for a period of not less than 4 seconds and not more than 8 seconds (beginning when the vehicle ignition switch is moved to the "on" or the "start" position) when condition (A) exists simultaneously with either condition (B) or condition (C), and that activates a continuous or flashing warning light, visible to the driver, displaying the identifying symbol for the seat belt telltale shown in Table 2 of FMVSS 101 or, at the option of the manufacturer if permitted by FMVSS 101, displaying the words "Fasten Seat Belts" or "Fasten Belts".

2. The first sentence of S7.3 is revised to read as follows:

A seat belt assembly provided at the driver's seating position shall be equipped with a warning system that activates, for a period of not less than 4 seconds and not more than 8 seconds (beginning when the vehicle ignition switch is moved to the "on" or the "start" position), a continuous or flashing warning light, visible to the driver, displaying the identifying symbol for the seat belt telltale shown in Table 2 of FMVSS 101 or, at the option of the manufacturer if permitted by FMVSS 101, displaying the words "Fasten Seat Belts" or "Fasten Belts", when condition (a) exists, and a continuous or intermittent audible signal when condition (a) exists simultaneously with condition (b).

Issued on May 29, 1985.

Diane K. Steed,

Administrator.

[FR Doc. 85-13400 Filed 6-3-85; 8:45 am]

BILLING CODE 4910-59-M

Proposed Rules

Federal Register
Vol. 50, No. 107
Tuesday, June 4, 1985

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563

[No. 85-421]

Accounting for Financial Options

Dated: May 24, 1985.

AGENCY: Federal Home Loan Bank Board.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Board has rescinded the accounting portion of a final rule adopted on April 18, 1985, pertaining to financial options transactions engaged in by insured institutions, and is instead soliciting public comment in order to ascertain whether to issue a proposal in this area.

DATE: Comments will be received until August 2, 1985.

ADDRESS: Send comments to Director, Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552. Comments will be available inspection at the above address.

FOR FURTHER INFORMATION CONTACT: Robert J. Pomeranz, Policy Analyst, Office of Policy and Economic Research, (202) 377-6209; M. Christian Mitchell, Accounting Fellow, Office of Examinations and Supervision, (202) 377-6837, or Joseph Longino, Attorney, Office of General Counsel, (202) 377-6446; Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION:

Background

On April 18, 1985, the Federal Home Loan Bank Board ("Board"), as operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC" or "Corporation"), amended 12 CFR 563.17-5 of its Insurance Regulations pertaining to financial options transactions to authorize institutions whose accounts are insured by the FSLIC ("insured institutions") to enter into over-the-counter options transactions with primary dealers. In connecton with those amendments, the Board revised the accounting procedure for "short call" option positions. The regulation formerly permitted an institution that entered into a short-call option matched against a specific asset, liability, or an intended cash-market transaction, to defer any realized losses over the estimated life of the matched item while recognizing the option commitment fee as income over the term of the option. As amended, the regulation required that fees received in conjunction with such options, as well as any related gains and losses, be deferred and amortized over the life of the hedged item. The intent of this amendment was to discourage institutions from entering into short-call option positions to take advantage of the favorable accounting treatment rather than for sound economic reasons, and to remove an incentive which may make some institutions reluctant to close out their short-call option positions even when losses are increasing in order to continue to record the commitment fee as income. *See* Board Resolution No. 85-293, April 18, 1985, 50 FR 16459, April 26, 1985.

Upon further consideration, the Board has today rescinded the April 1985 amendment to the accounting rule and reinstated the prior rule (*See* Board Resolution No. 85-420, May 24, 1985, published elsewhere in this edition of the **Federal Register**), and has determined instead to solicit public comment on this matter.

Discussion

The prior accounting regulation, reinstated today, requires that the option premium be divided into two components—the immediate exercise value (intrinsic value) and the option commitment fee (time value). Under this approach, if the transaction involves a long put or call, the option commitment fee (paid by the institution) is recognized as an expense over the term of the option. If the transaction involves a short-call or short put, the option commitment fee (received by the institution) is recognized as income over the term of the option. When an option is matched against a specific asset, liability, or an intended cash-market transaction any realized gains or losses are deferred over the estimated life of the matched item. When an option is unmatched, it must be carried on the books at its immediate exercise value. Unmatched options normally involve short put and long-call option positions.

The Board is concerned that this accounting technique may fail to recognize the economic substance of certain short-call option transactions. As noted above, the option commitment fee is determined at the time the position is established and is recognized as income over the term of the option, while any losses (realized by exercise of the option contract at its expiration or unrealized by virtue of holding the hedged asset at historical cost) are deferred over the term of the matched or hedged asset. Accordingly, an institution may engage in short-call option transactions for the resulting accounting treatment rather than for overall economic enhancement of the instituion's financial position. Moreover, even when losses are increasing, some institutions may be reluctant to close our their short-call positions since they may continue to recognize the commitment fee as income.

The seller of a short-call option sells a right, but not an obligation, to the option holder to purchase a security (or a futures contract if the option is for a futures contract) from the seller for a set period of time. There are three possible outcomes from selling these call option contracts when not offset prior to their expiration:

1. Interest rates remain stable for the term of the contract so that the option holder has no incentive to exercise the option. The seller of the option would retain the fee (which, under the Board's regulations, would have been recognized as income to the extent of the portion of the fee representing the commitment fee), while the market value of the matched asset would have remained stable.

2. Interest rates decline and the market value of the option contract increases, resulting in a gain for the holder of the option and a loss for the seller. In this situation, the seller would either deliver the cash-market security or offset the option position in the market. (The loss incurred by the seller to offset the position may exceed the amount of the fee originally received.) Assuming that there was a high degree of correlation between the option

contract and the cash-market investment, the loss of the offset of the option contract would be almost entirely mitigated by the cash-market gain.

3. Interest rates increase and the holder of the option has no incentive to exercise the option. The option would expire unexercised, the market value of the cash-market instrument would have declined and the option fee would be retained by the option seller (again the commitment fee portion of the option fee would have been recognized as income over the option term).

To an insured institution selling short-call option contracts, the first outcome would be the most favorable. The market value of the cash-market security would remain constant while the institution would collect the option fee. In the second possible outcome, assuming a high degree of correlation between the option contract and the cash-market instrument, the institution would recognize a net gain (represented by the amount of fee received), but less than the economic enhancement that would have resulted if the institution had not sold the call (due to the increase in the market value of the cash-market position). The third possible outcome presents the least desirable result because the fee income would not offset the decline in value of the cash-market instrument.

The regulatory concern with short-call option writing is that the potential for gain is limited to the fees received while the potential for loss is very large. In addition, as noted in the third possible outcome, the commitment fee is realized as income while the loss on the cash-market security would be recognized over the life of the security through a below-market rate of return. The economic reality of short-call option writing appears to be the elimination of all gain potential in excess of the option fee while retaining all loss potential in excess of the fee.

The Board believes that the current accounting for covered call option contracts may not adequately reflect the economics of these transactions. Accordingly, it seeks the public's views on all the related accountancy aspects of short-call option transactions engaged in by insured institutions, and particularly seeks comment on the following issues:

1. Should the Board prohibit short-call option transactions completely, on the grounds that they contain speculative elements and may enhance risk, and there are effective hedging techniques that are available to thrifts to control and/or minimize this exposure to interest-rate risk?

2. Does the current accounting for short-call option transactions that are matched against specific assets, liabilities or intended cash-market transactions, reflect the economic substance of the transactions?

3. If short-call option contracts have a place in the reduction of an institution's exposure to interest-rate risk, but the current accounting fails to reflect the economics of the transaction:

a. Should the Board require that all short-call option contracts be recorded at market?

b. Should the Board require that all short-call option contracts and matched asset or liability positions be jointly marked to market?

c. Should the Board require deferral accounting for all fees received on short-call option contracts?

d. Should the Board authorize different accounting when call option contracts are matched against assets with book values that approximate market value as opposed to those where book value is substantially in excess of market value? If so, what accounting should be used for each?

e. Do call options on futures contracts function in a manner similar to cash-market call option contracts such that the accounting for these contracts should be the same as that used for cash-market call option contracts?

4. If the Board determines to change the accounting requirements for call option contracts, to what extent, if any, should the Board provide a "saving" clause for transactions entered into or committed to before a certain date?

By the Federal Home Loan Bank Board.

Nadine Y. Penn,

Acting Secretary.

[FR Doc. 85-13389 Filed 6-3-85; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Summary Notice No. PR-85-5]

Petitions for Rulemaking; Summary of Petitions Received and Dispositions of Petitions Denied or Withdrawn

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking and of dispositions of petitions denied or withdrawn.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR Part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and be received on or before August 5, 1985.

ADDRESS: Send comments on the petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. 24545, 800 Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB-10A), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on May 28, 1985.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

Petition for Rule Making to the Administrator of the Federal Aviation Administration

[Docket No. 24545]

Petitioner, the Experimental Aircraft Association, Paul Poberezny, President

References

Federal Aviation Regulations, Part 11, § 11.15(a).
Federal Aviation Regulations, Part 21, § 21.17(a)(1).
March 5, 1985.

Proposal

To amend Federal Aviation Regulations, Part 21, § 21.17(a)(1) as necessary to permit the use of previously effective airworthiness

standards and procedures for type certification of airplanes not more than two-place having a single engine of not more than 100 horsepower.

Summary of the Petition for Publication in the Federal Register

Federal Aviation Regulations (FAR) 21.17 designates the requirements with which an applicant for a type certificate must show compliance for issuance of type certificates for aircraft, aircraft engines, or propellers. Unless otherwise specified by the Administrator (FAR 21.17(a)(1)(i)), or unless compliance with later effective amendments is elected or required (FAR 21.17(a)(1)(ii)), the applicant for a type certificate must show that the aircraft, aircraft engine, or propeller meets "the applicable requirements of this subchapter that are effective on the date of application for that certificate." The Experimental Aircraft Association (EAA) herewith petitions the Administrator of the Federal Aviation Administration (FAA) to amend FAR 21.17(a)(1) as necessary to permit the use of previously effective requirements and procedures for type certification of airplanes not more than two-place having a single engine of not more than 100 horsepower, hereafter for convenience referred to as recreational/training airplanes.

The EAA strongly believes that it is in the public interest to seek, find, and initiate action leading to revival of a dying United States industry, and to promote the re-growth of a segment of general aviation that is being stifled because of high initial investment and operating costs, and the lack of suitable new airplanes. The industry in jeopardy is the design, FAA type certification, and production of two-place, single engine airplanes for recreation and pilot training. Similar airplanes were designed and built under airworthiness standards and procedures in effect prior to FAR Part 23, such as U.S. Department of Commerce Aeronautics Bulletin No. 7-A (Aero Bulletin 7-A), dating back as far as 1934. The high costs involved in obtaining FAA type certification of these types of airplanes under the Standards and procedures of FAR's 21 and 23 has effectively shut them out of general aviation as it exists today. The rapid growth of the ultralight vehicle movement under FAR Part 103 is positive evidence that a significant segment of the U.S. population is eager to participate in sport aviation. While ultra light vehicles have filled a void, the designs of the vehicles are now at the upper end of the weight range for operation under FAR Part 103, and it has become evident that standards to permit FAA certification of these airplanes are imperative. Adoption of this EAA proposal would, therefore, provide standards and procedures for ultralight type of airplanes as well as airplanes of a type that were designed and certificated under Aero Bulletin 7-A.

It is the firm opinion of the EAA that allowing the type certification of recreational/training airplanes under the simpler standards and procedures of Aero Bulletin 7-A would lower costs to the degree that renewed interest would be generated in designing and building such airplanes, thereby leading to rejuvenation of the segment of general aviation that is almost dead. The EAA also believes that granting this request would be in the public interest because the stimulation it would give to the ailing industry would create new investment and sorely needed jobs. The EAA wholeheartedly endorses a public statement made by the FAA Administrator in late 1984 that "General Aviation is as important a part of our nation's transportation system as any other segment." Furthermore, the EAA also supports the current rule making action concerning establishment of a new primary category of aircraft. This petition to amend FAR 21.17(a)(1) does not conflict with the primary category proposal. It is intended only to provide a readily available, simplified means for type certification of a very limited class of airplanes at the lowest size and power range of those that would be eligible for primary category certification.

Adoption of the action requested would have no adverse effect on safety, since the proposed amendment would be applied only to two-place, single engine airplanes similar to types that were approved in past years under previously effective regulations. Many of these airplanes designed and built five decades ago are still flying today with Standard Airworthiness Certificates—a testimony to the soundness of the standards and procedures of Aero Bulletin 7-A for those types of airplanes. The EAA believes that changes to the regulations over the years were made to accommodate advances in technology that led to ever larger, multi-engine, highly sophisticated aircraft, intended for business aviation and air carrier operations, rather than to enhance the safety of two-place, single engine airplanes of simple design and construction. Thus, the early versions of the airworthiness standards and procedures have been shown over the years to have been adequate to ensure a high level of safety for such airplanes, therefore, there is no reason to believe they would not be adequate today to ensure the same level of safety for recreational/training airplanes.

The EAA, therefore, petitions the Administrator of the FAA to amend FAR 21.17(a)(1) to read as follows:

21.17(a)——

(1) The applicable requirements of this subchapter that are effective on the date of application for that type certificate, or, in the case of an airplane not more than two-place having a single engine of not more than 100 horsepower any previously effective requirements, unless——

* * * * *

Note.—This petition was previously published in abbreviated form in summary notice No. PR-85-4 [50 FR 18869; May 3, 1985]. It is being republished at the request of the EAA in order to provide additional information.

[FR Doc. 85-13249 Filed 6-3-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 85-NM-47-AD]

Airworthiness Directives; Boeing Model 727-200 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require inspection for corrosion of the lower surface of the wing center section which forms the upper wall of the ram air plenum chambers on Boeing Model 727-200 airplanes. This action is the result of reports of corrosion progressing through the lower skin into the center wing fuel tank which will permit fuel to enter the ram air duct and fuel vapor to enter the passenger compartment through the air conditioning sysem.

DATES: Comments must be received on or before July 29, 1985.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85-NM-47-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124-2207, or may be examined at the Seattle Aircraft Certification Office, FAA, Northwest

Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Stanton Wood, Airframe Branch, ANM-120S; telephone (206) 431-2924. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85-NM-47-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discusssion

There have been numerous reported incidents of corrosion of the lower surface of the wing center section which forms the upper wall of the air conditioning ram air plenum chambers. One recent incident resulted from the corrosion progressing through the lower skin into the center wing fuel tank. This incident permitted entry of fuel into the ram air duct and fuel vapors into the passenger compartment through the air conditioning system.

Since this condition is likely to exist or develop on other airplanes of this same type design an AD is proposed that would require the operators to periodically inspect all Model 727-200 airplanes for evidence of corrosion. If corrosion is detected it must be removed and the skin repaired.

It is estimated that 861 airplanes would be affected by this AD, that it would take approximately 22 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $757,680.

For the reasons discussed above, the FAA has determined that this document: (1) Involves a proposed regulation which is not major under Executive Order 12291, and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Boeing Model 727-200 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.85; 49 CFR 1.47.

2. By adding the following new airworthiness directive:

Boeing: Applies to all Model 727-200 series airplanes, certificated in all categories.

To detect corrosion of the wing lower skin that could result in fuel entering the ram air plenum chamber accomplish the following:

A. On aircraft with more than 10,000 hours or 4 years time in service, whichever occurs first, accomplish the following within the next 1,500 hours or 1 year time in service, whichever occurs first after the effective date of this AD:

1. Visually inspect the upper wall of the air conditioning ram air plenum chamber for corrosion in accordance with Part II of Boeing Service Bulletin 727-51-17, dated April 26, 1974, or later FAA approved revision.

2. If corrosion is detected, repair and refinish in accordance with Figure 3 of the Boeing Service Bulletin 727-51-17 dated April 26, 1974, or later FAA approved revision, or in a manner approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

B. Repeat the procedures required in paragraph A., above, at intervals not to exceed 7,500 hours or 4 years time in service, whichever occurs first.

C. Inspections accomplished in accordance with Part II of Boeing Service Bulletin 727-51-17 prior to the effective date of this AD satisfy the initial inspection requirements of this AD.

D. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Seattle Aircraft Certificaion Office, FAA, Northwest Mountain Region.

E. Special flight permits may be issued in accordance with Sections 21.197 and 21.199 of the Federal Aviation Regulations to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this proposal who have not already received these documents from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124-2207. These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on May 28, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85-13240 Filed 6-3-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 85-NM-48-AD]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require inspection of the pylon inboard and outboard midspar attach fitting lugs or spring beam aft lugs, as appropriate, for cracks. The proposed AD is prompted by a recent report of failure of both inboard midspar fitting lugs of one inboard pylon. This condition, if not corrected could result in separation of the engine from the airplane.

DATES: Comments must be received on or before July 29, 1985.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85-NM-48-AD, 17900 Pacific Highway South, C-68966, Seattle,

Washington 98168. The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124–2207, or may be examined at the Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT:

Mr. Owen E. Schrader, Airframe Branch, ANM–120S; telephone (206) 431–2923. Mailing Address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85–NM–48–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion

Recent inspections have revealed cracking of the pylon midspar fittings. One operator has reported finding both inboard midspar fitting lugs of one inboard pylon broken. The cracking was determined to be the result of fatigue cracking initiating at corrosion pits in the bore surface of the fitting outer lug. Failure of the midspar fitting lugs or the spring beam aft lugs could result in separation of the engine. Both sets of lugs are of the same design.

Boeing has issued Service Bulletin 747–54–2100, which defines the specific inspection procedures to be used to check for cracks in the pylon midspar fitting lugs or spring beam aft lugs on certain Boeing Model 747 series airplanes.

Since these conditions are likely to exist or develop in other airplanes of the same type design, an AD is proposed that would require inspection, repair, and/or replacement, as necessary, of the pylon midspar fitting lugs or spring beam aft lugs of certain Boeing Model 747 series airplanes.

It is estimated that 160 airplanes would be affected by this AD, that it would take approximately 56 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $358,400.

For the reasons discussed above, the FAA has determined that this document: (1) Involves a proposed regulation which is not major under Executive Order 12291, and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Boeing Model 747 series airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.85; 49 CFR 1.47.

2. By adding the following new airworthiness directive:

Boeing: Applies to Model 747 series airplanes, certificated in all categories, listed in Boeing Service Bulletin 747–54–2100 dated June 20, 1983. To prevent failure of the pylon midspar fitting lugs or springs beam aft lugs, as appropriate, accomplish the following, unless already accomplished:

A. Perform an ultrasonic inspection of the inboard and outboard midspar fitting lugs or spring beam aft lugs of each pylon for cracks in accordance with Boeing Service Bulletin 747–54–2100 dated June 20, 1983, or later FAA approved revisions, in accordance with the following schedule:

1. On airplanes that have accumulated less than 30,000 flight hours as of the effective date of this AD, inspect within 18 months after the effective date of this AD or prior to the accumulation of 25,000 flight hours, whichever occurs later.

2. On airplanes that have accumulated 30,000 to 40,000 flight hours as of the effective date of this AD, inspect within 12 months after the effective date of this AD.

3. On airplanes that have accumulated over 40,000 flight hours as of the effective date of this AD, inspect within 6 months after the effective date of this AD.

4. On airplanes that have had replacement of the midspar fitting or its lug bushings, or the spring beam or its aft lug bushings, inspect these lugs within 18 months after the effective date of this AD or within 25,000 flight hours after such replacement, whichever occurs later.

B. Repeat the inspection required by paragraph A., above, at intervals not to exceed 3,000 flight hours.

C. If any cracking is found in the lugs, replace the affected midspar fitting or spring beam prior to further flight.

D. Installation of new bushings of the new design in accordance with Boeing Service Bulletin 747–54–2100, dated June 20, 1983, or later FAA approved revisions, is terminating action for this AD.

E. On request by the operator, an FAA Principal Maintenance Inspector, subject to prior approval of the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, may adjust the inspection times in this AD, if the request contains substantiating data to justify the adjustment period.

F. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

G. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this proposal who have not already received these documents from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington, 98124–2207. These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on May 28, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85–13241 Filed 6–3–85; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 821 0129]

Multiple Listing Service of the Greater Michigan City Area, Inc.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require an Indiana firm providing a multiple listing service to member real estate brokers doing business in LaPorte County, Ind., among other things, to cease fixing, establishing or maintaining commission rates for brokerage services; urging its members to charge the customary market rate of commission; taking adverse action against nonconforming brokers; or otherwise engage in conduct having the tendency to restrain competition in the real estate brokerage market. The company would also be barred from interfering with any statement disseminated in an advertisement that truthfully refers or relates to another broker's business practices; restricting a broker from offering or accepting an exclusive agency listing, reserve clause listing or open listing; and restraining a broker's participation or involvement in a competitive organization or service. The firm would be further required to properly publish exclusive agency listings or reserve clause listings in its multiple listing service; timely amend its by-laws, Code of Ethics, rules and regulations, and similar data in accordance with the terms of the order; and provide area real estate brokers with a prescribed statement setting forth those terms. Additionally, the order would prohibit the company from improperly denying or delaying a membership application; require the firm to provide rejected applicants with a written notice of denial together with the reasons for the denial; and keep all data relating to membership applications for a specified period of time.

DATE: Comments must be received on or before August 5, 1985.

ADDRESS: Comments should be addressed to: FTC/Office of the Secretary, Room 136 6th St. and Pa. Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Arthur N. Lerner, FTC/P–1038, Washington, D.C. 20580. (202) 724–1341.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Real estate brokerage services, Trade practices.

[File No. 821 0129]

Agreement Containing Consent Order To Cease and Desist

In the matter of Multiple Listing Service of the Greater Michigan City Area, Inc., a corporation, also trading and doing business as Multiple Listing Service of Laporte County, Inc.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Multiple Listing Service Of The Greater Michigan City Area, Inc., and it now appearing that Multiple Listing Service Of The Greater Michigan City Area, Inc., hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Multiple Listing Service Of The Greater Michigan City Area, Inc., by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent is organized, existing and doing business under and by virtue of the laws of the State of Indiana, with its office and principal place of business located at 5450 North Johnson Road, in the City of Michigan City, State of Indiana.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft complaint here attached.

3. Proposed respondent waives:

a. Any further procedural steps;

b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

d. Any claim under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft complaint contemplated thereby and related material pursuant to Rule 2.34, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to prosposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

Definitions

For the purposes of this Order, the following definitions shall apply:

1. "Multiple listing service" shall mean a clearinghouse through which member real estate brokerage firms regularly and systematically exchange information on listings of real estate properties and share commissions with members who locate purchasers.

2. "Member" shall mean any real estate brokerage firm that is entitled to participate in the multiple listing service offered by respondent Multiple Listing Service Of The Greater Michigan City Area, Inc.

3. "Applicant" shall mean any owner or co-owner of a real estate brokerage firm who is duly licensed by the Indiana Real Estate Commission as a real estate broker within the State of Indiana and who has applied on behalf of his or her firm for membership in respondent's multiple listing service.

4. "Market" shall mean the provision of real estate brokerage services for residential properties located in LaPorte County, Indiana.

5. "Listing" shall mean any agreement between a real estate broker and a property owner for the provision of real estate brokerage services.

6. "Exclusive right to sell listing" shall mean any listing under which the property owner agrees to pay the broker a certain commission if the property is sold, regardless of who locates the purchaser.

7. "Reserve clause listing" shall mean any exclusive right to sell listing that includes a provision reserving the property owner's right to sell the property to one or more persons individually named in the listing agreement without owing a commission to the broker.

8. "Exclusive agency listing" shall mean any listing under which the property owner agrees to pay the broker a certain commission if the property is sold through any real estate broker, but, if the owner locates the purchaser independently of any real estate broker, the owner owes a reduced commission or no commission to the broker.

9. "Open listing" shall mean any listing under which the property owner grants the broker a nonexclusive agency to locate a purchaser for the property, such that the owner is free to enter into other open listings with other real estate brokers and owes a commission only to the broker who locates the purchaser.

I

It is ordered that respondent Multiple Listing Service of the Greater Michigan City Area, Inc., and its directors, officers, committees, representatives, agents, employees, subsidiaries, successors, and assigns, directly or indirectly or through any device, in or in connection with respondent's operation of a multiple listing service in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall cease and desist from:

A. Fixing, establishing, or maintaining any rate, range or amount of commission for real estate brokerage services, or otherwise restraining price competition among real estate brokers, including but not limited to:

1. Requiring, urging, recommending, or suggesting that any broker charge for brokerage services only such commissions or commission rates as are in accordance with local practice in similar transactions;

2. Requiring, urging, recommending, or suggesting that any listing filed with respondent's multiple listing service provide for payment of a commission in accordance with the customary practices within the market;

3. Requiring, urging, recommending, or suggesting that any broker refrain from charging or advertising any commission or commisison rate below what is customarily charged or prevailing in the market; or

4. Taking or threatening any action that has the purpose or effect of penalizing, discriminating against, or interfering with any broker's charging or advertising any commission or commission rate below what is customarily charged or prevailing in the market.

B. Declaring to be unethical or otherwise restricting or interfering with any statement in a generally disseminated advertisement by a broker that truthfully refers or relates to the business practice of any other real estate broker, such as truthful comparisons of commissions, commission rates, operating costs, services, methods of operation, or brokerage terms or conditions. Generally disseminated advertisements shall include any advertisement through the media, through printed distributions covering a particular geographic area or a particular association of persons, or through other general means.

C. Adopting any policy or taking any other action that has the purpose or effect of:

1. Requiring that any applicant or prospective applicant must have been engaged to any degree or in any manner or capacity in real estate brokerage for any period of time before becoming eligible for membership in respondent's multiple listing service;

2. Requiring that any prospective applicant, applicant, or member must:

a. engage in real estate brokerage full time;

b. derive any particular amount or portion of income from real estate brokerage; or

c. Operate from an established place of business at a nonresidential location;

3. Restricting the acceptance of any membership applicaiton for processing to unreasonably infrequent or limited periods of time during the year;

4. Unreasonably delaying action on any membership applicaiton or the induction of any new member; or

5. Discriminating against any prospective applicant, applicant, or member that is a new entrant in the market or new to respondent's multiple listing service;

Provided, however, that nothing contained in this subpart shall prohibit respondent from adopting or enforcing any reasonable and nondiscriminatory policy to assure that its members are actively engaged in real estate brokerage and that listings published on respondent's multiple listing service are adequately serviced.

D. Restricting or interfering with:

1. Any broker's offering or acceptance of any exclusive agency listing or reserve clause listing; or

2. The publishing on respondent's multiple listing service of any exclusive agency listing or reserve clause listing of a member.

E. Publishing on respondent's multiple listing service any exclusive agency listing or reserve clause listing:

1. In any manner different from the publishing of any exclusive right to sell listing; or

2. In any category separate from exclusive right to sell listings;

Provided, however, that nothing contained in subparts I.D. or I.E. shall prohibit respondent from: (a) including a simple designation that a published listing is an exclusive agency listing or reserve clause listing rather than an

exclusive right to sell listing; (b) charging a reasonable and nondiscriminatory fee based on costs for any service it provides; and (c) applying reasonable terms and conditions equally applicable to, and not discriminatory in their impact upon, the publication of any listing, whether exclusive agency, reserve clause, or exclusive right to sell.

F. Prohibiting any broker from entering into any open listing.

G. Restricting or interfering with any broker's development of, or participation or involvement in, any organization, service, or venture that competes in any way with respondent's multiple listing service.

H. Restricting or interfering with any member and property owner cancelling a listing before the listing's expiration date; provided, however, that nothing contained in this subpart shall prohibit respondent from: (1) requiring three days advance notice of the cancellation, including a copy of the cancellation agreement; (2) charging a reasonable and nondiscriminatory fee for any service it provides if the property subject to the cancelled listing is sold before the original expiration date of the listing and said fee is not otherwise owed to respondent by another member; and (3) charging a reasonable and nondiscriminatory fee based on costs for any service it provides.

II

It is further ordered that respondent Multiple Listing Service Of The Greater Michigan City Area, Inc., shall:

A. Within sixty (60) days after this Order becomes final, amend its by-laws, code of ethics, and rules and regulations and any other of its materials to conform to the provisions of this Order.

B. Within thirty (30) days after this Order becomes final, make its best efforts to distribute an announcement in the form shown in Appendix A to the principal(s) of each real estate brokerage firm doing business in LaPorte County, Indiana (including each member and including any other brokerage firm listed in the most current telephone yellow page directories for Michigan City and the city of LaPorte), including a sufficient number of copies to permit each real estate broker and salesperson associated with any such firm to receive the announcement.

C. For a period of five (5) years after this Order becomes final, furnish promptly a copy of this Order to:

1. Any person who inquires in writing about, or who submits an application for, membership in respondent's multiple listing service; and

2. Any other person who requests a copy.

III

It is further ordered that respondent Multiple Listing Service Of The Greater Michigan City Area, Inc., shall:

A. Within sixty (60) days after this Order becomes final, submit a written report to the Federal Trade Commission setting forth in detail the manner and form in which respondent has complied and is complying with this Order.

B. For a period of ten (10) years after this Order becomes final:

1. Provide to any applicant who has been denied membership prompt and clear written notice of the denial, specifying the membership requirements not met and explaining in what manner the requirements are not met; and

2. Keep all documents that discuss, refer, or relate to any denied or approved application for a period of five (5) years from the final decision on such application, maintaining all such documents in one separate file segregated by the names of the applicants.

C. For a period of ten (10) years after this Order becomes final, make available to the Federal Trade Commission staff for inspection and copying, upon reasonable notice, all documents that relate to determining whether respondent has been and is complying with this Order, including but not limited to the documents required to be kept by subpart III. B. of this Order.

D. Notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in respondent, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this Order.

E. Require as a condition of sale or transfer of all, or a substantial part, of respondent's business or assets to any other person seeking to perform essentially the same services as respondent in LaPorte County, Indiana that such successor or transferee file promptly with the Federal Trade Commission a written agreement to be bound by the terms of this Order; provided, however, that if respondent wishes to present to the Commission any reasons why this Order should not apply in its present form to said successor or transferee, it shall submit to the Commission a written statement setting forth such reasons prior to the consummation of the succession or transfer.

IV

It is further ordered that nothing in this Order shall be construed to exempt respondent from compliance with the antitrust laws or the Federal Trade Commission Act, and the fact that any activity is not prohibited by this Order shall not bar a challenge to it under such laws and statute.

[Date]

Appendix A

[Respondent's Regular Letterhead]

Announcement

As you may be aware, the Multiple Listing Service Of The Greater Michigan City Area, Inc., has entered into a consent agreement with the Federal Trade Commission that has now become final. The following is a brief summary of the provisions of the order issued pursuant to the consent agreement:

1. *Commission rates and advertising:* The MLS will not maintain any rate or amount of commission or fee for real estate brokerage services or restrain competition among member firms in any manner. Any member will be free to charge any commission rate and to engage in general truthful advertising of any type, including comparative advertising of rates or of other terms and services.

2. *Eligibility for membership:* The MLS will not require as a prerequisite for membership that a broker have owned and operated a business for a one year period or any other time period. In addition, the MLS will not require any applicant or member to be engaged full time in real estate brokerage, to operate from an office outside of the home, or to avoid participating in any other organization that competes with the MLS. Applications will be accepted and acted upon without unreasonable delay. If any membership application is denied, the MLS will promptly provide to the applicant a written explanation of the specific reasons for the denial.

3. *Property listings that limit or differ from an exclusive right to sell arrangement:* Members will be free to enter into any exclusive agency listing[1] or reserve clause listing.[2] The MLS will publish all listings of these types with notice that the listing is an exclusive agency listing or reserve clause listing rather than a standard exclusive right to sell listing.[3] Members also will be free to

[1] Under an exclusive agency listing, the owner owes a reduced commission or no commission to the broker if the owner locates the purchaser independently of any real estate broker.

[2] According to the order, a reserve clause listing is any exclusive right to sell listing that includes a provision reserving the owner's right to sell to designated persons without owing a commission to the broker.

[3] The MLS may charge the listing member a fee to cover the cost of publishing the listing upon a sale where no brokerage commission is due.

enter into any open listing. Under the order, the MLS will be free to allow or to disallow publication of open listings.

4. *Cancellation of listings:* The MLS will not prohibit the cancellation of a listing before its expiration date. However, the MLS may require three days advance notice of the cancellation. In addition, the MLS may still charge the member a regular service fee if the property subject to a cancelled listing is sold before the original expiration date of the listing, so long as that fee is not otherwise owed to the MLS by another member. In lieu of levying any such charge, the MLS may simply charge each member cancelling a listing a fee to cover the cost of publishing that listing.

The FTC is not endorsing any practice of the MLS that has not been challenged. For more specific information, you should refer to the FTC order itself. A copy of the order will be furnished to any person upon request.

President, Multiple Listing Service of the Greater Michigan City Area, Inc.

Analysis of a Revised Proposed Consent Order To Aid Public Comment

After considering the public comments that were received, the Federal Trade Commission has withdrawn its acceptance of an agreement to a proposed consent order from the Multiple Listing Service of the Greater Michigan City Area, Inc. ("MLS") and has accepted a new agreement from the MLS containing a revised proposed order. The revised agreement would settle charges by the Commission that the MLS, through various acts and practices, has restrained competition among residential real estate brokers in LaPorte County, Indiana.

The current version of the proposed order differs from the original version published in the **Federal Register** on May 18, 1984 (49 FR 21073) in that provisions have been added to prohibit the MLS from refusing to publish "exclusive agency listings" on its multiple listing service. The following analysis discusses these new provisions.

The revised proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Complaint

The complaint prepared for issuance by the Commission along with the original proposed order has been revised. It includes all the original allegations [4] and adds new allegations. The new allegations state that MLS members have conspired through the MLS to unlawfully prohibit members from publishing "exclusive agency listings" on its multiple listing service, unreasonably limiting the multiple listing service to only "exclusive right to sell listings". As described in the complaint, an "exclusive agency listing" is a brokerage service contract where the propety owner agrees to pay a certain commission if the property is sold through a broker, but, if the owner locates the purchaser independently of any broker, no commission or a reduced commission is due. This is in contrast to an "exclusive right to sell listing." As described in the complaint, an "exclusive right to sell listing" is a brokerage service contract where the property owner agrees to pay a certain commission if the property is sold, regardless of who locates the purchaser.

The complaint alleges that the purposes or effects of the MLS's refusal to publish exclusive agency listings have been to unreasonably restrain competition in one or more of the following ways, among others:

1. Restrain price competition among brokerage firms;

2. Restrain competition among brokerage firms based on willingness to accept different contract terms that may be attractive and beneficial to consumers;

3. Substantially limit the ability of consumers to negotiate lower prices for brokerage services and brokerage contract terms that may be more advantageous than an exclusive right to sell listing;

4. Subsantially limit the ability of residential property sellers to compete with real estate brokers in locating purchasers; and

5. Substantially limit consumers' ability to choose among a variety of brokerage firms competing on the basis of price, contract terms, and services.

The Proposed Order

The revised proposed order includes all the provisions contained in the original proposed order [5] and incorporates new provisions relating to exclusive agency listings.

The revised proposed order would prohibit the MLS from restricting or interfering with any broker's offering or acceptance of an exclusive agency listing or with the publishing on the MLS's multiple listing service of any exclusive agency listing of a member. It would also prohibit the MLS from publishing exclusive agency listings in any manner different from the publishing of any exclusive right to sell listing or in any category separate from exclusive right to sell listings. It is expressly provided, though, that the MLS designate that a published listing is an exclusive agency listing rather than an exclusive right to sell listing. It is also expressly provided that the MLS may charge a reasonable, nondiscriminatory publication fee based on costs for any service provided. Since the MLS charges a publication fee only if a commission is earned, this proviso assures that the MLS can recover its costs if the seller locates his or her own purchaser under an exclusive agency listing and no commission is owed. Finally, it is also expressly provided that the MLS may reasonably regulate the publication of exclusive agency listings so long as the regulations being maintained apply equally to all published listings and do not have a discriminatory impact upon exclusive agency listings.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

This proposed consent order has been entered into for settlement purposes only and does not constitute an admission by the respondent that the law has been violated as alleged in the complaint.

Emily H. Rock,

Secretary.

[FR Doc. 85-13379 Filed 6-3-85; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 13

[File No. 821 0076]

Orange County Board of Realtors, Inc., et al.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent

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[4] Various minor and technical revisions have been made to the phrasing of certain allegations of the original complaint to clear up miscellaneous ambiguities and to make the complaint more readable.

[5] Various minor and technical revisions have been made to the phrasing of certain provisions of the original proposed order to clear up miscellaneous ambiguities and to make the order more readable.

agreement, accepted subject to final Commission approval, would require, among other things, that an Orange County, N.Y. Board of Realtors and its wholly-owned subsidiary, which provides a multiple listing service for its member real estate brokers, cease restricting or interfering with any broker's offering or acceptance of an exclusive agency listing or with the publishing of such listing on the multiple listing service. The companies would be further required to publish exclusive agency listings in a non-discriminatory manner, and to timely amend their by-laws, rules and regulations, and other materials to conform to the provisions of the order.

DATE: Comments must be received on or before August 5, 1985.

ADDRESS: Comments should be addressed to: FTC/Office of the Secretary, Room 136, 6th St. and Pa. Ave., NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Arthur N. Lerner, FTC/P-1038, Washington, D.C. 20580, (202) 724-1341.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Real estate brokerage services, Trade practices.

[File No. 821 0076]

Agreement Containing Consent Order To Cease and Desist

In the Matter of Orange County Board of Realtors, Inc., a coroporation, and Multiple Listing Service of the Orange County Board of Realtors, Inc., a corporation.

The Federal Trade Commission having initiated an investigation of certain acts and practices of the Orange County Board of Realtors, Inc., and its wholly-owned subsidiary, the Multiple Listing Service of the Orange County Board of Realtors, Inc., and it now appearing that the Orange County Board of Realtors, Inc., and the Multiple Listing Service of the Orange County Board of Realtors, Inc., hereinafter sometimes referred to as proposed respondents, are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between the Orange County Board of Realtors, Inc., the Multiple Listing Service of the Orange County Board of Realtors, Inc., by their duly authorized officers, and their attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondents are organized, existing and doing business under and by virtue of the law of the State of New York, with their offices and principal places of business located at 50 North Church Street, in the City of Goshen, State of New York.

2. Proposed respondents admit all the jurisdictional facts set forth in paragraphs 3 and 14 of the draft complaint here attached.

3. Proposed respondents waive:

a. Any further procedural steps;

b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

d. Any claim under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft complaint contemplated thereby and related material pursuant to Rule 2.34, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the proposed complaint and order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

Definitions

For the purposes of this Order, the following definitions shall apply:

1. "Member" shall mean any real estate brokerage firm that is entitled to participate in the multiple listing service offered by respondents Orange County Board of Realtors, Inc., and Multiple Listing Service of the Orange County Board of Realtors, Inc.

2. "Listing" shall mean any agreement between a real estate broker and a property owner for the provision of real estate brokerage services.

3. "Exclusive right to sell listing" shall mean any listing under which the property owner appoints the broker as his or her exclusive agent for the sale of the property and agrees to pay the broker an agreed commission if the property is sold, whether by the broker or any other person including the owner.

4. "Exclusive agency listing" shall mean any listing under which the property owner appoints a broker as his or her exclusive agent for the sale of the

property at an agreed commission, but reserves the right to sell the property personally with no commission owed or at an agree reduction in the Commission.

I

It is ordered that each respondent and its directors, officers, committees, representatives, agents, employees, subsidiaries, successors, and assigns, directly or indirectly or through any device, in or in connection with the operation of a multiple listing service in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall cease and desist from:

A. Restricting or interfering with:

1. Any broker's offering or acceptance of any exclusive agency listing; or

2. The publishing on respondents' multiple listing service of any exclusive agency listing of a member.

B. Publishing on respondents' multiple listing service any exclusive agency listing:

1. In any manner different from the publishing of any exclusive right to sell listing; or

2. In any category separate from exclusive right to sell listings;

provided, however, that nothing contained in subparts I.A. or I.B. shall prohibit respondents from: (a) Including a simple designation, such as a code or symbol, that a published listing is an exlusive agency listing; and (b) applying reasonable terms and conditions equally applicable to, and not discriminatory in their impact upon, the publication of any listing, whether exclusive agency or exclusive right to sell.

II

It is further ordered that each respondent shall:

A. Within sixty (60) days after this Order becomes final, amend its by-laws and rules and regulations and any other of its materials to conform to the provisions of this Order.

B. For a period of five (5) years after this Order becomes final, furnish promptly a copy of this Order to any person who requests a copy.

C. For a period of ten (10) years after this Order becomes final, make available to the Federal Trade Commission staff for inspection and copying, upon reasonable notice, all documents that relate to determining whether either respondent has been and is complying with this Order.

III

It is further ordered that respondents shall jointly:

A. Within thirty (30) days after this Order becomes final, furnish a copy of this Order to each member of the mutliple listing service.

B. Within sixty (60) days after this Order becomes final, submit a written report to the Federal Trade Commission setting forth in detail the manner and form in which respondents have complied and are complying with this Order.

C. Notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in either respondent, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in either corporation that may affect compliance obligation arising out of this Order.

Orange County Board of Realtors, Inc., and Multiple Listing Service of the Orange County Board of Realtors, Inc.

[File No. 821-0076]

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from the Orange County Board of Realtors, Inc. ("Orange County Board") and its wholly-owned subsidiary, the Multiple Listing Service of the Orange County Board of Realtors, Inc. ("Orange County MLS" or "MLS"). The agreement would settle charges by the Commission that the proposed respondents, through certain acts and practices, have restrained competition among residential real estate brokers in Orange County, New York in violation of Section 5 of the Federal Trade Commission Act.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Complaint

A complaint has been prepared for issurance by the Commission along with the proposed order. It alleges that the Orange County Board and its MLS, acting as a combination of their members, have been unlawfully prohibiting MLS members from publishing "exclusive agency listings" on the multiple listing service, unreasonably limiting the multiple listing service to only "exclusive right to sell listings." As described in the complaint, an "exclusive agency listing" is a brokerage contract in which the property owner appoints a broker to be the exclusive agent for the sale of the property at an agreed commission, but reserves the right to sell the property personally without owing a commission or at an agreed reduction in commission. This is in contrast to an "exclusive right to sell listing." As described in the complaint, an "exclusive right to sell listing" is a brokerage contract in which the property owner appoints a broker to be his or her exclusive agent for the sale of the property and agrees to pay the broker an agreed commission if the property is sold, whether by the broker or any other person including the owner.

The complaint states that the Orange County MLS is a multiple listing service for member real estate brokerage firms doing business in Orange County, New York.[1] According to the complaint, only members of the Orange County Board may be members of its wholly-owned subsidiary, the Orange County MLS, and the Orange County Board controls the acts and practices of its MLS.

The complaint states that the Orange County MLS is the only multiple listing service serving Orange County, New York and that the vast majority of the full-time brokerage firms in the county are MLS members. It is alleged that, for each year since at least 1974, the vast majority of the total dollar volume of residential real estate sales in Orange County involved listings (brokerage contracts) published on the Orange County MLS. It is also alleged that publication of listings on the Orange County MLS is generally considered by property sellers and their brokers to be the fastest and most effective and convenient means of obtaining the broadest market exposure for residential property in Orange County.

The complaint states that the refusal by the proposed respondents to publish exclusive agency listing on their MLS has effectively prevented property owners and brokers from entering into such brokerage contracts—those that allow the owner to pay less or no

[1] As described in the complaint, each MLS member firm agrees to submit all of its Orange County exclusive right to sell residential property "listing" (brokerage contracts) for publication on the multiple listing service to the entire MLS membership and to share brokerage commissions with those member firms that successfully locate purchasers for properties it has listed.

commission if the owner locates the buyer independent of any broker.

The complaint states that the purposes or effects of the refusal by the Orange County Board and its MLS to publish exclusive agency listings have been to unreasonably restrain competition in one or more of the following ways, among others:

1. Restrain price competition among brokerage firms;
2. Restrain competition among brokerage firms based on willingness to accept different contract terms that may be attractive and beneficial to consumers;
3. Substantially limit the ability of consumers to negotiate lower prices for brokerage services and brokerage contract terms that may be more advantageous than an exclusive right to sell listing;
4. Substantially limit the ability of residential property sellers to compete with real estate brokers in locating purchasers; and
5. Substantially limit consumers' ability to choose among a variety of brokerage firms competing on the basis of price, contract terms, and services.

The Proposed Order

The proposed order would prohibit the Orange County Board and its MLS from restricting or interfering with any broker's offering or acceptance of an exclusive agency listing or with the publishing on their multiple listing service of any exclusive agency listing of a member. It would also prohibit respondents from publishing exclusive agency listings in any manner different from the publishing of any exclusive right to sell listing or in any category separate from exclusive right to sell listings.

Two provisos appear in the proposed order.

One proviso states that the Orange County Board and its MLS may designate in the multiple listing service publication that a published listing is an exclusive agency listing. This proviso is phrased a bit more specifically than the comparable proviso appearing in a companion proposed consent order from the Multiple Listing Service of the Greater Michigan City Area, Inc. ("Michigan City MLS" consent order), which also addresses multiple listing service refusal to publish exclusive agency listings. However, the two provisos are identical in substance. The difference in wording is a product of negotiations with different parties.

The second proviso in the proposed order states that the Orange County Board and its MLS may reasonably regulate the publication of exclusive agency listings so long as the regulations apply equally to all published listings and do not have a discriminatory impact upon exclusive agency listings.

In addition to the one difference already noted, the provisions of this proposed order differ from the comparable provisions of the proposed consent order from the Michigan City MLS in several other respects.

The proposed *Michigan City MLS* order includes an additional proviso that does not appear in this proposed order. This proviso, which states that the Michigan City MLS may charge a reasonable, nondiscriminatory fee based on costs for any service it provides, relates to the special manner in which the Michigan City MLS levies service charges for publishing listings.[2] This proviso would be superfluous in the *Orange County MLS* order.[3]

In addition, while their import is the same, the definitions of "exclusive right to sell listings" and "exclusive agency listings" in the instant proposed order are phrased slightly differently from those in the proposed *Michigan City MLS* order. The differences are a result of separate negotiations. Also, as a result of negotiation, and unlike the proposed *Michigan City MLS* order, the term "multiple listing service" is not defined in this proposed order.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

This proposed consent order has been entered into for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in the complaint.

Emily H. Rock,

Secretary.

[FR Doc. 85-13372 Filed 6-3-85; 8:45 am]

BILLING CODE 6750-01-M

[2] Unlike the flat (noncontingent) publication fee charged by the Orange County MLS, the Michigan City MLS charges a publication fee only if a commission is earned. The special proviso was included in the *Michigan City MLS* order to assure that the Michigan City MLS can recover its costs if the property owner independently locates the purchaser under an exclusive agency listing and no commission is owed.

[3] Under subparagraph I.B.2(b) of the proposed *Orange County MLS* order, the Orange County MLs would be free to charge for publishing an exclusive agency listing the same flat fee it charges for publishing an exclusive right to sell listing.

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-22083; File No. S7-24-85]

Proposed Rule Amendment to Rule 15Bc7-1 To Make Composite Compliance Examination Information Available to the Municipal Securities Rulemaking Board

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule amendments and solicitation of public comments.

SUMMARY: At the request of the Municipal Securities Rulemaking Board, the Commission is proposing to amend its rule governing the availability to the Board of copies of reports of compliance examinations of municipal securities brokers and municipal securities dealers. The amendment would permit examining authorities to submit certain composite information derived from compliance examinations in lieu of individual examination reports to the Commission to be made available to the Board.

DATE: Comments to be received by July 15, 1985.

ADDRESS: All comments should be submitted in triplicate and addressed to John Wheeler, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: William W. Uchimoto, Esq., (202) 272-2409, Room 5193, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: Section 15B(c)(7) of the Securities Exchange Act of 1934 ("Act") requires that copies of reports of compliance examinations of municipal securities brokers and municipal securities dealers made by the Commission, or furnished to it by the National Association of Securities Dealers, Inc. ("NASD") or by the appropriate bank regulatory agencies,[1]

[1] Examinations are performed by five entities. The Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation, as appropriate regulatory agencies, examine municipal securities dealers which are banks or separately identifiable departments or divisions of banks (as defined in MSRB rule G-1) regulated by those agencies. The NASD conducts compliance examinations of its members. The Commission is the appropriate regulatory agency for, and routinely examines municipal securities brokers and the remaining municipal securities dealers that are not members of the NASD.

shall, on request, be made available to the Municipal Securities Rulemaking Board ("MSRB") subject to such limitations as the Commission, by rule, deems necessary or appropriate in the public interest or for the protection of investors. In response to a written request by the MSRB for copies of examination reports and in order to implement the requirements of section 15B(c)(7), the Commission adopted Rule 15Bc7–1 on October 16, 1979.[2] The Rule makes information from reports of examinations available to the MSRB, subject to limitations designed to protect the confidentiality of such information, and establishes procedures for furnishing the information to the MSRB. The information provided to the MSRB pursuant to the Rule was intended to be a source of current data which the MSRB could use to monitor the activities of municipal securities professionals in analyzing the need for rulemaking.

The MSRB recently has informed the Commission that the information it receives pursuant to the rule, *i.e.*, summary descriptions of each examination, is not as useful to the MSRB as would be a report reflecting composite information derived from compliance examinations occurring over a specific period. Accordingly, the MSRB has requested that the Rule be amended to permit the NASD and the bank agencies to provide to the Commission more generalized, composite statistical and analytical data on compliance examinations in lieu of individual examination reports or the present summary compliance reports. The Commission, therefore, is proposing to amend Rule 15Bc7–1 to permit the periodic filing of composite information instead of the more frequent submission of information reflecting individual compliance examinations.

The amendment would allow the examining authorities to submit, in place of full examination reports, two copies of the cumulative report to the Commission, one for the Commission's use and the other to be furnished to the MSRB. Both copies would be required not to identify the firms which are the subject of the reports; [3] however, the amendment would authorize the Commission to request for its own use such identities as well as the full examination reports.

I. Regulatory Flexibility Act Consideration

Section 603(a) [4] of the Administrative Procedure Act,[5] as amended by the Regulatory Flexibility Act ("RFA"), [6] generally requires the Commission to undertake a regulatory flexibility analysis of the impact of a rule or amendment on "small entities," unless exempted under section 605(b) on the basis that the rule or rule amendments would not have a significant impact on a substantial number of small entities. The amendments' primary effect would be to provide the MSRB and the examining authorities a more efficient method of making available to the MSRB information regarding compliance examinations of municipal securities brokers and municipal securities dealers. Because the MSRB and the examining authorities are not small entities for purposes of the RFA, the Chairman of the Commission has certified that the Rule amendments, if promulgated, will not have a significant impact on a substantial number of small entities.

List of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

II. Statutory Basis and Text of the Amendments

Pursuant to the Securities Exchange Act of 1934 and particularly Sections 15B, 17, and 23 thereof, 15 U.S.C. 78*o*–4, 78q, and 78w, the Commission proposes to amend § 240.15Bc7–1 in Chapter II of Title 17 of the Code of Federal Regulations as follows:

Note.—Arrows indicate text proposed to be added. Brackets indicate text proposed to be deleted.

1. The authority citation for Part 240 continues to read as follows:

Authority: Sec. 23, 48 Stat. 901, as amended; 15 U.S.C. 78w, unless otherwise noted. Secs. 240.12b–1 to 240.12b–36 also issued under secs. 3, 12, 13, 15, 48 Stat. 892, as amended, 894, 895, as amended; 15 U.S.C. 78c, 78e, 78m, 78o. Secs. 240.14c–1 to 240.14c–101 also issued under sec. 14, 48 Stat. 895; 15 U.S.C. 78n. Secs. 240.15b10–1 to 240.15b10–9 also under secs. 15, 17 48 Stat. 895, 897, sec. 203, 49 Stat. 1076, sec. 6, 78 Stat. 570; 15 U.S.C. 78o, 78q, 12 U.S.C. 241 nt., unless otherwise noted.

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

2. By revising § 240.15Bc7–1 as follows:

§ 240.15Bc7–1 Availability of examination reports.

(a) Upon written request, copies of any report of an examination of a municipal securities dealer made by the Commission or furnished to it by an appropriate regulatory agency pursuant to section 17(c)(3) of the Act or by a national securities association pursuant to section 15(B)(c)(7)(B) of the Act shall be made available to the Municipal Securities Rulemaking Board (the "Board") by the Commission [within thrity days after receiving such report,] ►, upon written request,◄ subject to the following limitations:

(1) The Board shall establish by rule and shall maintain adequate procedures for ensuring the confidentiality of any information made available to it by the Commission pursuant to section 15(B)(c)(7)(B) of the Act;

(2) Information made available to the Board shall not identify any municipal securities broker, municipal securities dealer, or associated person which is the subject of [an] ►a non-public◄ examination report;

[(3) * * *]
[(4) * * *]

(b) [* * *] ►If information to be made available to the Board is furnished to the Commission on a separate form prepared by an appropriate regulatory agency other than the Commission or by a national securities association, that form, rather than a copy of any report of an examination, will be made available to the Board, provided that the conditions set forth in this paragraph are satisfied. Within sixty days of every six month period ending May 31 and November 30, each appropriate regulatory agency or national securities association making available information on a separate form shall furnish to the Commission two copies of a form containing the information set forth in paragraphs (b)(1) through (b)(8) of this section. One copy of the form shall be made promptly available to the Board. Copies of any forms furnished pursuant to this paragraph shall not identify any municipal securities broker, municipal securities dealer, or associated person which is the subject of an examination from which information was derived for the form; however, the Commission may obtain

[2] *See* Securities Exchange Act Release No. 16282 (October 16, 1979), 44 FR 61944. The Rule was proposed for comment in Securities Exchange Act Release No. 15885 (May 30, 1979), 44 FR 32816.

[3] The proposed amendment would require that composite reports not identify any municipal securities broker or municipal securities dealer or associated person that is the subject of an examination report and that the MSRB take steps to ensure the confidentiality of the information it receives.

[4] 5 U.S.C. 603(a).

[5] 5 U.S.C. 551, *et seq.*

[6] Pub. L. No. 96–354, 94 Stat. 1164, (September 19, 1980).

for its own use, upon request, the identity of any such examinee or the full examination reports. Furnished forms shall include the following information.◄

(1) [* * *] ►The report period.◄

(2) [* * *] ►(i) With respect to a national securities association, the number of examinations which formed the basis of the report and, of these examinations, the number which were routine, special, and financial/operational. (ii) With respect to an appropriate regulatory agency which is a bank agency, the number of examinations which formed the basis of the report and, of these examinations, the number which were routine, special, and financial/operational. The number of examinations which formed the basis of the report of bank dealers and the number of examinations of separately identifiable departments or divisions of banks effecting municipal securities transactions.◄

(c) Copies of any report of an examination of a municipal securities broker or municipal securities dealer made by the Commission or furnished to it pursuant to section 15B(c)(7)(B) or section 17(c)(3) of the Act, or separate forms made available to the Commission pursuant to paragraph [(a)(3) or paragraph (a)(4)] ◄(b)►of this section will be maintained in a nonpublic file.

By the Commission.

John Wheeler,

Secretary.

May 28, 1985.

Regulatory Flexibility Act Certification

I, John S.R. Shad, Chairman of the Securities and Exchange Commission, hereby certify pursuant to 5 U.S.C. 605(b) that the proposed amendment to Rule 15Bc7-1 set forth in Securities Exchange Act Release No. 22083, if promulgated, will not have a significant economic impact on a substantial number of small entities. The reason for this certification is that the proposed amendment, if adopted, would only affect the Municipal Securities Rulemaking Board, Commission, National Association of Securities Dealers, Inc., Federal Reserve Board, Comptroller of the Currency, and Federal Deposit Insurance Corporation, all which are not small entitities for purposes of the Regulatory Flexibility Act.

Dated: May 29, 1985.

John S.R. Shad,

Chairman.

[FR Doc. 85-13447 Filed 6-3-85; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM85-17-000 (Phase I)]

Regulation of Electricity Sales-for-Resale and Transmission Service

Issued: May 30, 1985.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Inquiry.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is issuing this Notice of Inquiry to evaluate its present policies toward wholesale electricity transactions and transmission service. The Commission's objective is to evaluate how its policies promote, or whether they impede, efficiency in electricity markets, and to determine whether there are available alternatives to, or possible revisions of, those policies which would further promote efficiency in the electronic utility industry.

Our inquiry will be conducted in two phases. This notice addresses our regulation of coordination transactions and transmission service. A subsequent notice will be issued in four to seven weeks that will address requirements service. Our regulation of requirements service is being treated separately because the nature of this service and thus the issues associated with it are very different from those of transmission and coordination.

DATES: Comments must be filed by 4:30 p.m. EDT on August 9, 1985. A public conference will be held on September 18, 1985. Requests to participate in the conference must be received by August 9, 1985.

ADDRESS: Comments and requests to participate in the conference should refer to Docket No. RM85-17-000 (Phase I) and be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol St., NE., Washington, D.C. 20426. The conference will be held in Hearing Room A at the above address.

FOR FURTHER INFORMATION CONTACT: Wilbur C. Earley, Office of Regulatory Analysis, Federal Energy Regulatory Commission, 825 North Capitol St., NE., Washington, D.C. 20426, (202) 357-8286.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Federal Energy Regulatory Commission (Commission) is issuing this Notice of Inquiry to evaluate its present policies toward wholesale electricity transactions and transmission service. The Commission's objective is to evaluate how its policies promote, or whether they impede, efficiency in electricity markets and to determine whether there are available alternatives to, or possible revisions of, those policies which would further promote efficiency in the electric utility industry.

While the Commission's jurisdiction over electricity is limited to interstate transmission and sales-for-resale,[1] that jurisdiction is significant and has efficiency implications for utilities and customers across the country. The Commission directly regulates about 29 percent of all kilowatt-hours sold or exchanged in the United States. Since the Commission regulates wholesale sales, the effect of its regulation is eventually felt in practically all end-use customers' rates.

Efficiency in electricity supply is attained through a variety of operating and investment decisions. It requires purchasing fuel and other inputs at lowest possible cost, properly maintaining existing plants to avoid costly outages, dispatching plants on an economic basis, installing the right amount and type of generating and transmission capacity at minimum cost, and retiring plants that are economically obsolete.

Supplying electricity efficiently also requires efficiency in exchange. The latter will result if utilities take advantage of opportunities to trade with each other. Such voluntary coordination transactions can have both long- and short-term benefits. They can lower the total amount of capacity required to supply a given level of electricity and can lower operating costs by substituting relatively low-cost energy for that from generators with high running costs. The nation benefits because such trade leads to a more efficient allocation of resources—electricity is produced using fewer and less costly resources.

By implementing policies that encourage an efficient supply of electricity, the Commission helps to ensure reasonable consumer rates. This can be accomplished by providing utilities with incentives to make efficient investment and operating decisions. And, where electricity markets are competitive, utilities and their customers can benefit from the flexibility to respond to market forces. competition can be a valuable complement to regulation. Traditional regulation is essentially reactive. Its success can be

[1] Federal Power Act, section 201, 16 U.S.C. 824a.

questionable during times of changing industry conditions. Competition, on the other hand, encourages firms to make efficient decisions with a mimimun of regulatory intervention. Regulation should allow utilities to respond to market conditions, where possible, in a manner consistent with the public interest.

Efficiency also requires that consumers receive price signals that reflect the cost of their consumption decisions. A failure in this respect will result in too few or too many of society's resources being devoted to electricity production.

This inquiry is organized around the three major types of electricity transactions under our jurisdiction. The Commission regulates interstate transmission and sales-for-resale. One of the major types of jurisdictional transactions is *transmission service*. The other two major types of transactions are *coordination services* and *requirements service*, both of which are categories of sales-for-resale or wholesale sales.

Coordination transactions are sales or exchanges of specialized electricity services that allow buyers to realize cost savings or reliability gains that are not attainable if they rely solely on their own resources. For sellers, these transactions provide opportunities to earn additional revenue, and to lower customer rates, from capacity that is temporarily excess to native load capacity requirements. Transactions are voluntary and the seller's obligation is limited.[2]

Requirements service is a long-term supply of firm power to meet all or part of the buyer's load requirements, including load growth. Sellers undertake a relatively open-ended commitment to provide service. Utilities must plan and build generation and transmission capacity to meet this commitment. From the seller's perspective, requirements service is essentially the same as retail service with the primary difference being that delivery is typically made at transmission voltages. Requirements customers are considered part of the seller's native load. Buyers are typically municipally or cooperatively owned distributors that resell the power to end-use customers.

Our inquiry will be conducted in two phases. This notice addresses our regulation of coordination transactions and transmission service. A subsequent notice will be issued in four to seven weeks that will address requirements service. Our regulation of requirements service is being treated separately because the nature of this service and thus the issues associated with it are very different from those of transmission and coordination.

II. Coordination Transactions

A. Pricing

The Commission's general policy is to encourage coordination transactions because they lower the costs of providing electricity to native load customers and improve reliability.[3] In this section of the inquiry, we want to examine two aspects of our regulation: pricing and the distribution of gains realized from coordination trade.

1. Current Commission Practices

In determining coordination rates, the Commission allows an energy charge to recover incremental variable costs, plus an additional rate component in the form of either a reservation charge or an adder. The additional component allows sellers to recover more than production costs. Because coordination transactions are sales of opportunity using capacity built for native load that is temporarily excess, only incremental variable costs are incurred by the seller. No fixed costs are incurred because coordination customers do not cause generating capacity to be built. However, a charge in excess of incremental variable costs is necessary; without it a potential seller would have no reason to transact.

Under the Federal Power Act and our regulations, the Commission has flexibility in determining the size of the additional rate component.[4] As a result, the Commission has developed and applies certain general rules in evaluating the reservation charges and adders proposed in coordination rate filings.

a. *Reservation Charges.* Capacity or reservation charges are set at a certain level per kilowatt or per kilowatt-hour. When such charges are set on a per kilowatt basis, they are paid to the seller whether or not energy is taken by the buyer.

The Commission generally allows reservation charges that do not exceed the annualized cost of the generating units expected to provide the service. Where service is provided from system resources, the benchmark is the fully distributed cost of the seller's system capacity. As such, the coordination buyer makes a contribution to the seller's fixed costs and pays no more than the seller's native load customers for the use of the capacity. Reservation charges have typically been filed as specific rates, meaning that utilities must file again with the Commission before they can be changed. More recently, however, the Commission has permitted pricing flexibility by accepting ceiling rates set at or below the benchmark rate, thereby giving utilities the flexibility to charge less than the ceiling price without filing for a new rate.[5] This permits companies to adjust prices in response to changing market conditions and thus make sales that might otherwise be lost while waiting for approval of a price change.

The Commission also allows rates that can exceed the benchmark rate when utilities ask for them and circumstances indicate they are justified.[6] For example, for sales from system resources we have allowed reservation charges based on the newest or most expensive generating unit for three reasons. First, that unit probably caused the excess capacity situation which made the sale possible. Second, the rates appeared to be cheaper than the competitive market alternatives the buyers faced, thus saving the buyers money. If they were not cheaper, no purchase would have been made. Third, the seller's latest unit can be viewed as a measure of the cost of installing capacity in the region and might serve as a reasonable proxy for the value derived by the buyer in choosing to purchase rather than build. In addition, the Commission has permitted reservation charges above the benchmark based on the demonstrated opportunity costs of the seller and has also considered service reciprocity, economic incentives, and regional prices in setting the rates for coordination services.

b. *Split-the-Savings Adders.* For economy energy sales the Commission has a long standing practice of accepting split-the-savings adders as a rate component.[7] Under this formula, a price

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[2] For a comprehensive discussion of the functioning of coordination markets, *see* Stanley Besen and Jan Paul Acton, *The Economics of Bulk Power Exchanges*, Rand Corporation, May 1985. This report was prepared under a contract with the Commission and is available from our Division of Public Information.

[3] *See* Opinion No. 288, Public Service Company of New Mexico, 25 FERC ¶ 61,469 (1983) at 62,038.

[4] 18 CFR 35.12(b)(2)(i), 35.13(a)(2)(i)(D) and (h)(37).

[5] *See*, for example, Florida Power Corporation, Rate Schedule FERC No. 88, accepted for filing by letter order dated February 21, 1980, Docket No. ER80-152. Pennsylvania Power and Light Company, Rate Schedule No. 75, accepted for filing by letter order dated November 16, 1982, Docket No. ER82-815 *and* Connecticut Light and Power Company, Rate Schedule FERC No. 324, accepted for filing by letter order dated August 22, 1984, Docket No. ER84-515.

[6] *See*, for example, Pacific Power and Light Company, 27 FERC ¶ 61,080 (1984).

[7] Economy energy is unconditionally interruptible energy supplied during a period, usually one hour.

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per kilowatt-hour is set midway between the seller's incremental and the buyer's decremental variable costs. The Commission allows such a formula as an incentive for the seller to make economy energy available and because it divides transaction benefits equally between the buyer and seller.[8] Since the spread between the costs of the buyer and seller can be large, however, split-the-savings adders can constitute another situation in which rates can exceed the benchmark described above. Recently, the Commission has also allowed utilities the flexibility to charge less than a split-the-savings rate for hourly economy if it will enhance chances for a sale.

Based on current practices, we would like commenters to consider two options. One is to continue our practice of applying our standards, as described above, on a case-by-case basis. A second option is to codify our current standards and the criteria used to deviate from them. This could provide more certainty to utilities as to the rate they can expect the Commission to approve.

2. Alternatives to Current Practices

The Commission is also interested in considering a different approach to determining coordination rates. We encourage these transactions because of the benefits the customers of both the seller and buyer receive. Perhaps we should allow that rate which most facilitates a sale and produces maximum benefits to buyers and sellers as a whole, without regard to the size of the fixed cost contribution. Determining prices by other criteria may hinder optimal resource allocation. Once administered price ceilings are reached, sellers may become indifferent to the value of the commodity to different potential buyers and resort to some other allocation method such as first-come-first-served. Non-market approaches do not guarantee that the utilities who actually get the coordination service are the ones who value it the most. This can be inefficient in that the highest cost generation may not get displaced by the seller's lower cost energy.

In addition, the Commission wants to consider the relationship between the benefits of coordination trade and risk. The Commission is interested in receiving comments regarding whether there is any risk associated with making coordinated sales. The capacity committed to coordinated sales is temporarily excess to native load requirements. It is the sellers, not buyers, who have incurred the financial risks associated with building the capacity that is used in these sales. Projects may not be completed, plants may be uneconomic, or the capacity may be substantially in excess of needs. In any of these situations, either stockholders or ratepayers of the selling utility are at risk for the incurred costs. Since it is the sellers who have incurred the risks of building capacity that is eventually made available on coordinated markets, perhaps sellers should be able to rely to a greater extent on market forces to establish the value of that capacity.

We therefore want to consider two alternatives to current policies and practices. The first option would be to allow any negotiated or market-determined rate, contingent on the existence of sufficient competition. Sufficient competition exists when sellers and buyers have viable alternatives. The buyer's decremental costs would in effect be the price ceiling and the buyer and seller would have to thoroughly delineate all viable alternatives.

The second option would be to allow the buyer's decremental costs to be the price ceiling without reference to market conditions. Under this option, sellers may charge whatever the buyers are willing to pay.

The Commission is interested in receiving responses to the following specific questions.[9]

1. What factors should guide the Commission in evaluating its regulation of coordination services?

2. Which of the Commission's filing and pricing policies for coordination sales are promoting or inhibiting the operation of bulk power markets? Can examples be provided? Are there factors beyond the Commission's control that interfere with the operation of bulk power markets? Please identify them.

3. Are the Commission's general practices on coordination pricing clearly understood in the industry? Does the Commission need to improve the way information about current practices is disseminated? When a utility files a coordination rate, is there sufficient certainty about how the Commission will treat the request?

4. Should the Commission continue the current pricing practices for coordination sales? Why? Do they result in an efficient allocation of capacity and energy among potential buyers? Do they result in an equitable distribution of gains among buyers and sellers?

5. Should the Commission consider setting price zones that are based on regional costs rather than company-specific costs?

6. How competitive are coordination markets? Are some coordination markets more competitive than others? What standards and procedures would allow the Commission to assess the competitiveness of a particular coordination market? How should the Commission account for changes in market conditions over time? What problems are being encountered that inhibit competitive coordination markets? Is transmission access a problem? Is the information exchanged among utilities adequate for markets to be competitive?

7. Should the Commission approve wider price zones for sales that are made in competitive coordination markets? For example, should the Commission give wider zones to utilities that voluntarily agree to provide transmission service to other potential sellers of the same coordination service? Would wider zones better allocate services among potential buyers and gains among buyers and sellers than the present standards?

8. For coordination sales that occur in competitive markets, should the buyer's decremental cost serve as the price ceiling? Please explain. Would allowing such a price ceiling in competitive markets allow prices to better allocate capacity and energy among potential buyers and the gains of trade among buyers and sellers than the current price ceiling standards?

9. Should the buyer's decremental cost serve as the price ceiling regardless of the competitiveness of the market? Please explain. Would the allocation of capacity among potential buyers be less efficient than if competitive market conditions were required for such a price ceiling? Would the allocation of benefits among buyers and sellers be less equitable than under competitive market conditions?

10. Should the same price ceiling standards be used for both economy and reliability transactions? If not, what distinctions in standards should be made between the two types of trades?

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when the seller's incremental energy cost is less than the buyer's decremental energy costs.

[8] See American Electric Power Service Corporation, 8 FERC ¶ 61,068 at 61,232 (1979). See also Final Rule, Filing of Rate Schedules; Regulations Limiting Percentage Adders in Electric Rates for Transmission Service [Reg. Preambles 1977–1981] FERC Stat. & Reg. ¶ 30,153 at 31,033 n. 7 (1980); Commonwealth Edison Company, 23 FERC ¶ 61,219 at 61,472 (1983).

[9] Many of these questions, and those that follow in the next section, address issues that are being examined in the Southwest experiment. They are being asked now so the Commission will be in a better position to assess the significance of the results obtained from the experiment.

Will a distinction create inefficiencies or distorting in electricity markets?

11. Are coordination services provided with varying degrees of firmness? Please explain. If the answer is yes, how are the varying degrees of firmness reflected in prices?

12. What function is performed by reservation charges? What factors are considered in setting reservation charges? Have there been instances where a coordination service was interrupted or curtailed to a customer that had paid a reservation charge? Please describe.

13. The Commission would like commenters to consider having all coordination services sold in a spot market. Instead of two part rates that include a reservation charge, one part rates would be used. This rate would vary so as to clear the market in relatively short periods. Please comment on this method. Would it enhance efficiency compared to the use of reservation charges?

14. Giving coordination service sellers wider pricing flexibility could lead to price discrimination in that sellers could charge different prices for the same service to different customers. Under what circumstances will pricing flexibility lead to price discrimination? Is such price discrimination undesirable? Are there circumstances when price discrimination can lead to improvements in economic efficiency or otherwise be beneficial?

15. Do transactions among affiliated companies is a holding company system raise any special concerns about increased pricing flexibility? Please explain.

B. Distribution of Gains

As we have indicated, the price at which a trade is made determines how transaction benefits are allocated between buyer and seller. There is also a second allocation—the division of benefits between a utility's stockholders and its requirements customers. This second split is the focus of this section of the inquiry.

In deciding on this second allocation, we believe that particular attention should be paid to two questions. First, what will be the effect on the utility's incentive to participate in coordination purchases and sales? And second, is the distribution of transaction benefits consistent with the distribution of risk?

We will discuss coordination *sales* first. A coordination sale produces benefits to the selling utility to the extent that price exceeds the incremental cost of making the sale. Currently, utilities estimate coordination sales revenues for a future test period in requirements rate cases. The revenue estimates for coordination sales are credited to the cost of service to lower requirements rates. Requirements customers thus realize all of the *estimated* gains. To the extent the actual revenues from coordination sales differ from the estimates, the utility's stockholders benefit or lose because no adjustments are made for estimation errors. Whether stockholders gain or lose, and by how much, is uncertain *a priori*.

The incentive effects of this scheme are clear. The utility stands to lose money if actual coordination sales revenue falls short of the estimate. On the other hand, all benefits above the estimate are retained by stockholders. Utilities are therefore provided with an incentive to maximize coordination sales.

This approach can potentially result in a distribution of benefits between requirements customers and stockholders that may not be directly related to the distribution of risk. Most of the incremental costs of making a coordination sale are fuel costs. These are billed to coordination customers and credited to requirements customers through the fuel adjustment clause (FAC). There is little or no risk to requirements customers or stockholders here. The capacity used to make coordination sales is paid for by requirements customers in fixed rates as long as the capacity is included in the rate base. Requirements customers are at risk in the sense that they must pay for the capacity whether or not it is marketed through a coordination sale, but they receive only the benefits of the estimated coordination revenues used to set base rates. All gains above the estimate go to the utility, not customers. The only risk of the selling utility actually losing money lies in not meeting the coordination sales estimate. That estimate is made by the utility and can be difficult for regulators to challenge.[10] The risk is thus in part determined by the utility's own forecast.

We will now turn to coordination *purchases*. There are two types of benefits produced by coordination purchases: economic and reliability. Economic power purchases lower the costs of producing electricity. Such savings occur primarily through fuel costs. Benefits are quantified in dollar terms as the difference between avoided cost and the cost of the purchase. Under our present rules, all benefits are passed to customers.

The costs of all short-term economic purchases are recoverable through the FAC.[11] Longer-term purchase costs must be estimated in a rate case and included in fixed rates. There is little likelihood of estimation error because the terms of such purchases are likely to be known in advance. If, however, a utility underestimates purchase expenses, the loss is limited to the non-fuel portion of the additional purchase expense because the fuel cost portion is recoverable through the FAC. Although requirements customers bear the risk of overestimates, estimation errors should be minor.

Utilities have an incentive to make economic purchases because they lower customer rates. Lower rates will help increase sales to, and retain the loads of, price sensitive customers. Under current Commission practices, however, utilities could profit from overestimates of long-term purchase expenses used in setting base rates. This may conflict with the rate reduction incentive to maximize economic purchases. The Commission is interested in receiving comments on the nature and extent of this potential conflict.

The other major benefit of coordination purchases is reliability gains. Reliability purchases are made when a utility has insufficient generating capacity to meet either its load or its reserve margin. Purchases are thus made to avoid service outages or decrease their probability. These reliability benefits are difficult to quantify, but they all go to requirements customers.

Utilities are subject to some risk in making unanticipated reliability purchases. Such purchases would not be forecasted in requirements rate proceedings and thus their cost would not be recovered in base rates. Under our present FAC rules, cost recovery is limited to the fuel cost portion of reliability purchase expenses. The rest is paid by the utility. Requirements customers compensate utilities for providing adequate capacity. Part of that compensation is a risk premium. Unexpected reliability purchases are implicitly one of the risks it covers.

Some utilities may, however, *plan* to meet capacity requirements to some extent with long-term purchases. The

[10] A rigorous test of the estimate's accuracy would require the identification of all sales that could be made but which are not included in the estimate. This would require hourly information on expected load, costs and operating conditions for the utility and for many, if not all, of its neighboring systems.

[11] For a discussion of our policy on economic purchase costs, see Order No. 352, Final Rule, *Treatment of Purchase Power in the Fuel Cost Adjustment Clause for Electric Utilities*, 25 FERC ¶ 61,378 (1983).

expense of such purchases could be estimated and recovered in base rates. The probability of estimation errors with these capacity charges is remote and thus entails little risk and little likelihood of overrecovery.

The Commission would like comments on the following questions concerning the allocation of coordination benefits and risk between stockholders and ratepayers and how that allocation can best be made:

16. What are the positive and negative aspects of the Commission's present practices concerning the distribution of coordination transaction benefits? How do they affect the incentives to buy and sell coordination service? What risks, if any, do utilities incur in making coordination sales and purchases? Do the Commission's present practices result in a distribution of benefits between requirements customers and stockholders that is consistent with risk incurrence? Please explain the basis of your answer.

17. Should the Commission establish a specific distribution of coordination trade benefits between stockholders and requirements customers? Please explain. If the answer is yes, what distribution do you suggest? How would this distribution affect requirements customer rates? What mechanism would best facilitate the suggested distribution? Would the FAC be an appropriate mechanism? Please explain.

18. Does lowering requirements customer rates and meeting least-cost regulatory scrutiny provide sufficient incentive for utilities to maximize the benefits to be gained from coordination transactions?

19. Should the distribution of benefits be the same for all types of coordination transactions? For example, should purchases be treated differently than sales? Should different types of sales be treated differently? Should different types of purchases be treated differently?

20. How would any policy changes regarding the distribution of coordination benefits affect competition and efficiency?

III. Transmission

Interest in transmission service has increased recently because of current industry conditions. Marketing excess capacity, exploiting cost differences between utilities, and the growth of non-utility capacity sources have made transmission important to many of the traditional and non-traditional industry participants. Although transmission service has increased more than three times as fast as retail sales in the past decade or so, there is some concern that the present supply and access conditions are inadequate.

Availability of transmission services is a necessary element to competitive electricity markets. The extent to which there is such availability is influenced by three factors: (1) an adequate supply of transmission facilities, (2) transmission service pricing, and (3) institutional access arrangements.

First, with respect to the supply of facilities, the Commission can provide strong incentives for utilities to invest in new transmission capacity through the rates that are allowed for transmission service. But state and local authorities also influence the supply of transmission capacity through their siting and certification authority and their decisions on how costs are treated in retail rates.

Second, with respect to pricing, the Commission directly regulates the rates for the transmission of electricity in interstate commerce. The Commission generally approves rates that do not exceed average embedded transmission costs, but it has approved some transmission prices that are market or value based. For example, instead of a specific rate some utilities charge a percentage of the benefits of economy energy transactions transmitted through their systems.[12]

We have also approved a settlement agreement among power pool members for a rate for using excess transmission capacity to import economic power from outside the pool. The rate is based on a projection of the revenues a member could realize by importing the power itself and then selling it to other pool members at a split-savings price, instead of letting those other members use the excess transmission capacity.[13] And in another case, we accepted a settlement agreement involving a sale of excess transmission capacity by a power pool member where the rate was determined by a sealed bid procedure open to the other transmission system owners in the pool.[14]

The Commission desires to explore the area of transmission service pricing. One aspect of this is determining the proper cost basis for rates. Many transmission rates now ignore non-transmission costs. Transmission service affects power flows and losses on a utility's entire system and possibly those of other utilities. Generation as well as transmission costs are affected.[15] Prices that reflect transmission costs alone and ignore these non-transmission costs do not accurately reflect the real cost of providing transmission service.

Another transmission pricing issue to consider is the relevance of cost based prices for certain transmission services. Transmission service may be needed to permit economy type coordination transactions to take place. These transactions produce a pool of benefits equal to the difference between the seller's incremental cost and the buyer's avoided cost less transmission costs. From an efficiency perspective, the important consideration is that the transmission service is performed so the economy transaction can occur and produce benefits to society. How the pool of benefits is allocated among buyer, seller, and transmission agent may not be important as long as the participants agree to it and all of the cost-saving trades are made. The resources used in generating the energy are the same regardless of the benefit split.

Third, access arrangements are an important factor to the availability of transmission services. The Commission's authority to order transmission access is limited. It would therefore like to identify any impediments to voluntary transmission arrangements and to determine what, if anything, the Commission can do to remove those impediments.

Some restrictions on transmission access may be necessary. For example, some degree of restriction may be necessary to assure efficient and reliable system planning and operation. Transmission service affects the dynamics of a bulk power system. Generation dispatch and transmission line loadings are affected, as are line losses. And if a request is for long-term firm service, additional capacity may have to be added. For these reasons, requests for transmission service may have to be evaluated on a case-by-case basis and adequate notice requirements or other conditions may have to be imposed.

Performing transmission service for native load customers may mean the transmitting utility would lose load. This could result in either the utility or its

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[12] *See*, for example, Interconnection Agreement between the Pennsylvania-New Jersey-Maryland Interconnection and the New York Power Pool, Pennsylvania Power and Light Company, Rate Schedule FERC No. 66, accepted for filing by letter order dated October 29, 1980, Docket No. ER80-509.

[13] *See*, Pennsylvania-New Jersey-Maryland Interconnection 28 FERC ¶ 61,205 (1984).

[14] *See*, Baltimore Gas and Electric Company, 28 FERC ¶ 61,096 (1984).

[15] *See* Oak Ridge National Laboratory, *Analysis of Power Wheeling Transactions*, 1984, Chapter 2. This report was prepared under a contract with the Commission. It is available from our Division of Public Information.

remaining native load customers paying for capacity that was built for those the service would benefit. Another consequence is that the capacity used in providing transmission service could be used to make short-term opportunity sales in coordination markets and thus earn additional revenue to lower native load rates.

The availability of transmission service can be vital to developing efficient and competitive electricity markets. To gain a better understanding about transmission pricing and aaccess conditions, the Commission requests comments on the following questions:

21. Is the demand for transmission services being met? If not, why?

22. Does the Commission's regulation impede voluntary transmission arrangements? How? What can the Commission do to promote more voluntary transmission arrangements?

23. How should transmission services be priced? Should transmission services be priced according to their degree of firmness? How can this be accomplished?

24. Are there efficiency reasons for requiring cost-based rates for transmission service for purely economy transactions? If cost-based rates were not required for such transactions, could a transmission agent set a price that would preclude some otherwise efficient trades? Please describe the conditions under which this could happen.

25. Please comment on the desirability of allowing excess transmission capacity to be sold or auctioned to the highest bidder. How would such auctions affect the efficiency with which electricity is produced and transmitted? Would auctions lead to an undesirable redistribution of income between utilities? How would auctions affect the wholesale customer rates of the buyer and seller of transmission capacity.

26. Consider the following hypothetical. Utility A, a low-cost generator, wants to sell energy to Utility C, a high-cost generator. The transaction must be transmitted across the system of Utility B, whose generation costs fall between A's and C's. But Utility B refuses to transmit the energy and, instead, insists on buying the energy from A and reselling it to C at a mark-up. Does Utility B's behavior result in any efficiency losses? Please explain. If there are no efficiency losses, are there any negative aspects to B's behavior? How common is such behavior in actual practice?

27. Consider another hypothetical. A wholesale requirements customer of utility O wants to shift its load to Utility P because P has lower average cost rates. Utility O would have to transmit the power from P to the customer. Assume that both utilities (O and P) are either members of the same centrally dispatched power pool or they closely coordinate their generation resources with each other such that the generation dispatch is not affected by the load shift. Are any efficiency gains accomplished by Utility O providing the transmission service? Please describe any positive or negative effects associated with the transmission service.

28. Under what circumstances would expanded access to transmission services not be desirable?

29. What are the appropriate nonprice terms and conditions for transmission service?

30. Do our pricing policies create any disincentives to transmission investment? What can the Commission do to encourage proper transmission investment?

31. Transmitting energy from one utility to another can have effects on the systems of utilities not directly involved in the transaction, i.e., third-party effects. Some third-party effects can involve line losses, generating costs and transfer capability. Can third-party effects be significant? Describe all of the possible third-party effects. How can third-party effects be identified and quantified? How can they be reflected in transmission rates?

IV. Request for Public Comments

A. Procedure for Filing Written Comments

The Commission invites all interested persons to submit written comments, data, views, or arguments on issues raised in this notice. While the Commission desires comments on the specific questions posed in this notice, parties are encouraged to comment on *any* aspect of the issues raised in the discussion. Commenters should not feel obligated to respond to every question. Responses can be limited to the questions that address the commenter's principal concerns. To the extent that several groups or individuals may have similar interests, they are encouraged to file joint comments.

To facilitate the Commission's comment analysis and preparation for a public conference, commenters are urged to provide a 3–5 page executive summary of their positions on the issues raised in Phase I of this inquiry. Additionally, commenters should double space their comments, provide a concise description identifying the commenter, and use the same numbering system as the Commission's inquiry when answering questions.

All comments must be received by the Commission by 4:30 p.m. EDT on August 9, 1985. Comments must be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 and should reference Docket No. RM85–17–000 (Phase I). An original and 14 copies should be filed.

All comments will be placed in the public file which has been established in this docket and which is available for public inspection in the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. during regular business hours. Copies of comments will be available for purchase.

B. Public Conference

A public conference to discuss Phase I issues will be convened at 10:00 a.m. on September 18, 1985, in Hearing Room A, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Another conference to discuss Phase II issues will be convened on a date to be announced in the forthcoming Phase II notice.

The Phase I public conference will not be of a judicial or evidentiary nature. Persons requesting to speak will be divided into participant panels and will be permitted time to present prepared remarks. There will be no cross examination of persons presenting statements. However, the Commissioners may question these persons. In addition, anyone may submit to the conference moderator questions to be asked of persons on the participant panels. The moderator will determine whether the question is relevant and whether the time limitations permit it to be presented. Any further procedural rules will be announced by the moderator at the conference. Transcripts of the conference will be available in the public file for this proceeding, Docket No. RM85–17–000 (Phase I) in the Commission's Office of Public Information, and may be ordered from that office.

Requests to participate in the conference must be received by August 9, 1985. Requests must be in writing and submitted to the Office of the Secretary, and should request the amount of time required for the oral presentation. Requests must be filed separately from any comments filed in this proceeding. Persons participating at the conference should bring 50 copies of their statement to the conference. A list of the participants in the conference will be available in the Commission's Office of Public Information and at the conference

on the morning the conference is convened.

List of Subjects in 18 CFR Part 35

Electric power rates, Electric utilities.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-13419 Filed 6-3-85; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Parts 1301, 1305 and 1307

Registration of Manufacturers, Distributors and Dispensers of Controlled Substances; Registration Regarding Ocean Vessels

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action was necessitated by the closing of the U.S. Public Health Service (USPHS) hospital and clinic system and the discontinuance of form HSA-590, previously issued to certain maritime interests by those hospitals and clinics. This action amends 21 CFR 1301.28 by deleting all references to HSA-590, Authorization to Purchase Controlled Substances for Vessels, and by making corresponding amendments to the Order Form provisions of 21 CFR Part 1305 and miscellaneous provisions of 21 CFR Part 1307. In addition, this action will establish a new procedure whereby the master or first officer of certain vessels may purchase controlled substances for medical use aboard such vessels. It will also provide for flexibility in determining the location at which a medical officer employed by the owner or operator of certain vessels, aircraft or other entities may obtain a registration from this agency.

DATE: Comments should be received on or before July 5, 1985.

ADDRESSES: Send comments in quintuplicate to: Administrator, Drug Enforcement Administration, U.S. Department of Justice, 1405 I Street, Northwest, Washington, D.C., 20537. Attention: Federal Register Representative.

FOR FURTHER INFORMATION CONTACT: G.T. Gitchel, Chief, Diversion Operations Section, 1405 I Street, Northwest, Washington, D.C., 20537, telephone number (202) 633-1216.

SUPPLEMENTARY INFORMATION:

List of Subjects

21 CFR 1301

Administrative practice and procedure, Drug Enforcement Administration, Drug traffic control, Security measures.

21 CFR Part 1305

Drug traffic control, Reporting requirements.

21 CFR Part 1307

Drug traffic control.

The USPHS hospital and clinic system was closed effective October 1, 1981. DEA was notified by the PHS that it had no plans to continue issuing form HSA-590 and that no other agency would issue forms. Accordingly, the DEA initiated certain interim procedures to provide those vessels which had previously utilized form HSA-590 with a method of obtaining controlled substances. This was necessary because after the discontinuance of the form HSA-590, the only method remaining in the regulations (21 CFR 1301.28) for vessels, aircraft or other entities to purchase controlled substances was that they be acquired and dispensed under the general supervision of a medical officer who was licensed in a state as a physician, employed by the owner or operator of the vessel, aircraft or other entity, and registered under the Controlled Substances Act at the location of the principal office of the owner or operator of the vessel, aircraft or other entity.

While the above method is satisfactory in most instances, it does not provide a procedure for the puchase of controlled substances for vessels when no medical officer is employed by the owner or operator of a vessel, or in the event such medical officer is not accessible and the acquisition of controlled substances is required. With the discontinuance of form HSA-590, it is necessary to amend 21 CFR 1301.28 to delete all reference to that form and to provide a new procedure whereby vessels may acquire controlled substances under the above described circumstances.

Ocean going vessels purchase only limited quantities of controlled substances and this amendment affects only those vessels whose owners do not presently employ a registered medical officer to purchase controlled substances. This action is intended to clarify existing procedures and to assist the affected maritime interests, and their suppliers, by providing an alternative method of obtaining necessary controlled substances. Moreover, it will also assist those vessels whose owners wish to employ a registered medical officer by authorizing that a medical office may be registered at a location other than the principal office of the owner or operator.

Accordingly, the Deputy Assistant Administrator of the DEA, Office of Diversion Control, hereby certifies that this amendment will have no significant negative impact upon small businesses or other entitities within the meaning and intent of the Regulatory Flexibility Act, 5 U.S.C. 501 et seq. Pursuant to Executive order 12291, sections 3(c)(3) and 3(e)(2)(c) this notice of proposed rulemaking has been reviewed by the Office of Management and Budget.

Pursuant to the authority vested in the Attorney General by the Controlled Substances Act, 21 U.S.C. 801, et seq., and redelegated to the Deputy Assistant Administrator of the Drug Enforcement Administration, Office of Diversion Control, the Deputy Assistant Administration hereby proposes that Title 21 of the Code of Federal Regulations, Parts 1301, 1305 and 1307, be amended as follows:

1. The authority citation for Part 1301 is revised to read as follows:

Authority: 21 U.S.C. 821, 822, 823, 824, 871(b), 875, 877.

2. The authority citation for Part 1305 is revised to read as follows:

Authority: 21 U.S.C. 821, 828, 871(b).

3. The authority citation for Part 1307 is revised to read as follows:

Authority: 21 U.S.C. 821, 822(d), 871(b).

PART 1301—[AMENDED]

§ 1301.28 Registration regarding ocean vessels. [Amended]

4. Paragraph (a) is amended by replacing the words, "or the master of the vessel" with the words, "or the master or first officer of the vessel."

5. Paragraph (b) is revised to read:

(b) A medical officer shall be: (1) Licensed in a state as a physician; (2) Employed by the owner or operator of the vessel, aircraft or other entity; and (3) Registered under the Act at either of the following locations:

(i) The principal office of the owner or operator of the vessel, aircraft or other entity or

(ii) At any other location provided that the name, address, registration number and expiration date as they appear on his Certificate of Registration (DEA Form 223) for this location are maintained for inspection at said principal office in a readily retrievable manner.

6. Paragraph (c) is revised to read:

(c) A registered medical officer may serve as medical officer for more than one vessel, aircraft, or other entity under a single registration, unless he serves as medical officer for more than one owner or operator, in which case he shall either maintan a separate registration at the location of the principal office of each such owner or operator or utilize one or more registration pursuant to paragraph (b)(3)(ii) of this section.

7. Paragraph (d) is revised to read:

(d) If no medical officer is employed by the owner or operator of a vessel, or in the event such medical officer is not accessible and the acquisiton of controlled substances is required, the master or first officer of the vessel, who shall not be registered under the Act, may purchase controlled substances from a registered manufacturer or distributor, or from an authorized pharmacy as described in paragraph (f) of this section, by following the procedure outlined below:

(1) The master or first officer of the vessel must personally appear at the vendor's place of business, present proper identfication (e.g., Seaman's photographic identification card) and a written requisition for the controlled substances.

(2) The written requisition must be on the vessel's official stationery or purchase order form and must include the name and address of the vendor, the name of the controlled substance, description of the controlled substance (dosage form, strength and number or volume per container) number of containers ordered, the name of the vessel, the vessel's official number and country of registry, the owner or operator of the vessel, the port at which the vessel is located, signature of the vessel's officer who is ordering the controlled substances and the date of the requisition.

(3) The vendor may, after verifying the identification of the vessel's officer requisitioning the controlled substances, deliver the controlled substances to that officer. The transaction shall be documented, in triplicate, on a record of sale in a format similar to that outlined in (4) below. The vessel's requisition shall be attached to copy 1 of the record of sale and filed with the controlled substances records of the vendor, copy 2 of the record of sale shall be furnished to the officer of the vessel and retained aboard the vessel, copy 3 of the record of sale shall be forwarded to the nearest DEA Division Office within 15 days after the end of the month in which the sale is made.

(4) The vendor's record of sale should be similar to, and must include all the information contained in, the below listed format.

Sale of Controlled Substances to Vessels

(Name of registrant)

(Address of registrant)

(DEA registration number)

Line No.	No. of packages ordered	Size of packages	Name of product	Packages distributed	Date distributed
1					
2					
3					

(Line numbers may be continued according to needs of the vendor)

Number of lines completed.

Name of vessel.

Vessel official number.

Vessel's country of registry.

Owner or operator of the vessel.

Name and title of vessel's officer who presented the requisition.

Signature of vessel's officer who presented the requisition.

8. Section 1301.28(f) is revised to read:

Any registered pharmacy which wishes to distribute controlled substances pursuant to this section shall be authorized to do so, provided that:

(1) the registered pharmacy notifies the nearest Division Office of the Administration of its intention to so distribute controlled substances prior to the initiation of such activity. This notification shall be by registered mail and shall contain the name, address, and registration number of the pharmacy as well as the date upon which such activity will commence; and

(2) such activity is authorized by state law; and

(3) the total number of dosage units of all controlled substances distributed by the pharmacy during any calendar year in which the pharmacy is registered to dispense does not exceed the limitations imposed upon such distribution by section 1307.11 (a)(4) and (b) of this subchapter.

PART 1305—[AMENDED]

§ 1305.03 Distributions requiring order forms. [Amended]

9. Paragraph (e) is revised to read:

(e) The purchase for such substances by the master or first officer of a vessel pursuant to § 1301.28 of this chapter: Provided, that copies of the record of sale are generated, distributed and preserved by the vendor according to that section.

PART 1307—[AMENDED]

§ 1307.11 Distribution by dispenser to another practitioner.

10. Paragraph (a)(4) is revised to read:

(4) The total number of dosage units of all controlled substances distributed by the practitioner pursuant to this section and § 1301.28 of this subchapter during each calendar year in which the practitioner is registered to dispense does not exceed 5 percent of the total number of dosage units of all controlled substances distributed and dispensed by the practitioner during the same calendar year.

11. Paragraph (b) is revised to read:

(b) If, during any calendar year in which the practitioner is registered to dispense, the practitioner has reason to believe that the total number of dosage units of all controlled substances which will be distributed by him pursant to this section and § 1301.28 of this subchapter will exceed 5 percent of the total number of dosage units of all controlled substances distributed and dispensed by him during that calendar year, the practitioner shall obtain a registration to distribute controlled substances.

* * * * *

All interested persons are invited to submit their comments or objections in writing regarding this proposal. If a person believes that one or more issues raised by him warrants a hearing, he shall so state and summarize the reasons for his belief.

In the event that comments or objections to this proposal raise one or more issues which the Administrator finds, in his sole discretion, warrant a hearing, the Administrator will have published in the **Fededral Register** an order for a public hearing which will summarize the issues to be heard and which will set the time for the hearing (which will not be less than 30 days after the date of the order).

Dated: April 3, 1985.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control.

[FR Doc. 85-13383 Filed 6-3-85; 8:45 am]

BILLING CODE 4410-09-M

UNITED STATES INFORMATION AGENCY

22 CFR Part 502

Worldwide Free Flow (Export-Import) of Audio-Visual Materials

AGENCY: United States Information Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Agency is proposing to modify the regulations at 22 CFR Part 502 in order to insert a time limit for entering appeals. Accordingly, it is proposed that 22 CFR 502.5(b) be modified to give an applicant 30 days to appeal a decision of the Attestation Officer to the Review Board.

DATES: The Agency will receive appeals to all prior decisions until August 5, 1985. Comments are due June 24, 1985. The proposed rule shall become final August 5, 1985 unless a notice is published in the **Federal Register** to the contrary.

ADDRESSES: Send comments to Merry Lymn, Attorney-Advisor, United States Information Agency, 301 4th Street SW., Washington, D.C. 20547.

FOR FURTHER INFORMATION CONTACT: Merry Lymn, Attorney-Advisor, United States Information Agency, 301 4th Street, SW., Washington, D.C. 20547. (202-485-7976).

SUPPLEMENTARY INFORMATION: The Beirut Agreement, a multi-nation treaty with the formal title "Agreement for Facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific, and Cultural Character" facilitates the free flow of educational audio-visual materials between nations, by eliminating import duties, import licenses, special taxes, quantitative restrictions and other restraints and costs, by shipment under an international certificate. Each government may issue certificates for those materials for which basic ownership is in that country. The material must be primarily educational as to its nature and usefulness.

Executive Order 11311 (October 14, 1966) appointed and authorized the USIA to carry out the provisions of the Agreement. The Agency's regulations provide for three levels of review. The application is originally screened by the Chief Attestation Officer (in consultation with experts) and a certificate is issued or denied. Under Agency regulations at 22 CFR Part 502, an applicant may seek formal review of an adverse ruling by the Chief Attestation Officer. There are two stages of appeal from the Attestation Officer's decision. The first appeal is to a Review Board, the second, directly to the Director.

Under the existing regulations an applicant may appeal to the Director of the Agency within 30 days of receipt of the Review Board decision. As the rules now read, there is no time limit by which an applicant may appeal to the Review Board from a decision of the Attestation Officer. Recently, we have been receiving appeals from decisions which were rendered in excess of two years previously. Appeals registered at this late date create unnecessary problems for the Agency and appear to be an abuse of the intent of the regulation. Upon consideration, the Agency believes that an applicant can easily file an appeal to the Review Board within 30 days of a decision of the Attestation Officer. Thirty days is a standard time frame in judicial and administrative forums for appeal of decisions and is consistent with the time frame already in place for an appeal to the Director from a decision of the Review Board. Thus, the Agency proposes to modify 22 CFR 502.5(b) by adding the following to the end of the first sentence:

"within 30 days of the date of the Attestation Officer's decision."

The first sentence will read:

Any applicant may ask for formal review of any ruling of a USIA Attestation Officer within 30 days of the date of the Attestation Officer's decision.

The Agency is inviting comments by June 24, 1985. The rule will become final August 5, 1985 unless the comments from the public indicate good reason not to implement the new time frame.

All prior decisions will receive grandfather rights. In other words, all applicants which have not yet appealed prior decisions will be given until August 5, 1985 to file appeals from the Attestation Officer's decision to the Review Board.

Accordingly it is proposed to amend 22 CFR Part 502 as follows:

Dated: May 14, 1985.

Charles Z. Wick,

Director, United States Information Agency.

List of Subjects in 22 CFR Part 502

Education, Imports, Trade agreements.

PART 502—[AMENDED]

1. The authority citation for Part 502 continues to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 2051, 2052, 22 U.S.C. 1431 et seq. E.O. 11311, 31 FR 13413, 3 CFR 1966-1970 Comp. page 593.

2. Section 502.5 is amended by revising the first sentence of paragraph (b) to read as follows:

§ 502.5 Review and appeal.

* * * * *

(b) Any applicant may ask for formal review of any ruling of a USIA Attestation Officer within 30 days of the date of the Attestation Officer's decision. * * *

* * * * *

[FR Doc 85-13409 Filed 6-3-85; 8:45 am]

BILLING CODE 8230-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 101-35, 101-36, and 101-37

Removal From Chapter 101 of Subchapter F, ADP and Telecommunications

AGENCY: Office of Information Resources Management, GSA.

ACTION: Notice of proposed rulemaking.

SUMMARY: The General Services Administration proposes to remove automatic data procesing (ADP) and telecommunications management provisions from the Federal Property Management Regulations (FPMR) (41 CFR Subchapter F). The purpose is to remove regulatory provisions that have been superseded by the Federal Information Resources Management Regulation (FIRMR).

DATES: Comments are due: July 5, 1985.

ADDRESS: Comments should be submitted to the General Services Administration (KMPP), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Roger W. Walker, Policy Branch, Office of Information Resources Management, telephone (202) 566-0194 or FTS, 566-0194.

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for purposes of Executive Order 12291 of February 17, 1981. GSA decisions are based on adequate information concerning the need for, and the consequences of the rule. The rule is written to ensure maximum benefits to

Federal agencies. This is a Government-wide management regulation that will have little or no net cost effect on society.

List of Subjects in 41 CFR Parts 101-35, 101-36, and 101-37

Government information resources activities, Government ADP management, Government telecommunications management.

SUBCHAPTER F—[REMOVED AND RESERVED]

It is proposed, pursuant to sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), 41 CFR Chapter 101 is amended by removing and reserving Subchapter F—ADP and Telecommunications, consisting of Part 101-35—ADP and Telecommunications Management Policy, Part 101-36—ADP Management, Part 101-37—Telecommunications Management, and Appendix to Subchapter F—Temporary Regulations.

Dated: May 22, 1985.

Francis A McDonough,

Deputy Assistant Administrator for Federal Information Resources Management.

[FR Doc. 85-13348 Filed 6-3-85; 8:45 am]

BILLING CODE 6820-25-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 80, 81 and 83

[PR Docket No. 85-145; FCC 85-247]

Maritime Radio Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The FCC proposes to revise and reorganize the existing Parts 81 and 83 of the rules governing the maritime radio services into a new Part 80. This action is part of the FCC's ongoing effort to review, simplify and clarify its regulations. The intended effect of this action is to eliminate unnecessary rules and language and improve the organization of the regulations governing the maritime radio services.

DATES: Comments must be received on or before September 23, 1985, and reply comments on or before November 22, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Robert Mickley, Robert DeYoung, William Berges or Nicholas Bagnato, Private Radio Bureau, Aviation & Marine Branch, Washington, D.C. 20554, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 80

Alaska, Coast stations, Communications equipment, Radio, Ship stations, Telephone, Telegraph.

47 CFR Part 81

Alaska, Coast stations, Communication equipment, Telephone, Telegraph.

47 CFR Part 83

Communications equipment, Radio, Ship stations.

In the matter of Reorganization and revision of Parts 81 and 83 of the rules to provide a new Part 80 governing the maritime radio services. (PR Docket No. 85-145).

Notice of Proposed Rule Making

Adopted: May 9, 1985.
Released: May 24, 1985.

By the Commission.

1. In this Notice of Proposed Rule Making (Notice) we propose to rewrite and reorganize the Commission's rules governing the maritime radio services. Our primary objectives in this proceeding are to eliminate redundancy, to remove obsolete language, and to restructure the maritime rules so that they are easier for the public to understand and to use. We are also taking this opportunity to review the necessity for and the impact of the regulatory requirements contained in the maritime services rules. The changes proposed in this Notice will have no effect on the safety of life or property at sea.

Background

2. The Commission's rules that govern the maritime radio services are currently contained in Parts 81 and 83 of Title 47 of the Code of Federal Regulations. Part 81 (Stations on Land in the Maritime Services and Alaska Fixed Service) contains the licensing requirements, operational procedures, and technical standards applicable to maritime stations on land and Alaska fixed stations. Part 83 (Stations on Shipboard in the Maritime Services) addresses the licensing requirements, operational procedures and technical standards for the use of maritime radio by ships and boats.[1] As part of our ongoing regulatory review and paperwork reduction programs, we have carefully reviewed these two parts.[2]

3. Although separate rule parts for stations on land and stations on ships is a reasonable method of organizing the maritime radio services rules, it has a number of disadvantages. Many of the general procedures, frequency bands and technical standards are similar, which leads to similar rule sections appearing in both Parts 81 and 83. It also frequently necessitates amending two rule parts to change a single standard or general requirement. Larger documents, more complexity, and higher printing costs result.

4. Because of the commonality of major portions of Parts 81 and 83 we have tentatively concluded that it would be beneficial to consolidate the maritime rules into one new comprehensive rule part. This would not only reduce the redundancy now contained in the two parts but also provides an opportunity to improve the organization of the maritime rules, eliminate unnecessary language, and review again each rule under the guidelines of the Regulatory Flexibility Act, Pub. L. 96-354, and the Paperwork Reduction Act, Pub. L. 96-611. Our goal is to produce a simplified body of maritime regulations structured to accommodate future amendments.

Proposal

5. Appendix A contains our initial efforts to accomplish the goal described above. We have rewritten and reorganized the rules contained in Parts 81 and 83 to produce a new Part 80 entitled Maritime Services. We emphasize that the changes proposed in Part 80 are primarily editorial in nature. We do not intend to alter the substantive requirements applicable to the various maritime services except where specifically described below. There is no negative effect on safety of life or property at sea due to these proposed changes.

6. The proposed new Part 80 reduces the size of the maritime rules by approximately 40 percent. This results from (1) the elimination of duplicative sections such as definitions and application procedures, (2) the removal of unnecessary language and rules, background material and recommended practices, and (3) the reorganization of rules and frequency tables to avoid

[1] The term "ship" or "vessel" includes every type of watercraft capable of being used as means of transportationon water. See 47 U.S.C. 153(W)(1).

[2] In a preliminary review of Parts 81 and 83 in the Report and Order in PR Docket No. 82-796, released June 14, 1983, 48 FR 28640, we deleted or revised 47 rule sections which contained unnecessary record keeping or reporting requirements.

repetition. In the paragraphs below we will address the nature of the proposed changes incorporated in each new subpart. Subparts A–I are of general applicability while Subparts J–P apply to stations on shore and Subparts Q–X apply to stations on ships. Appendix B is a cross reference table which lists each rule contained in Parts 81 and 83 in the first column, the corresponding proposed Part 80 rule number and title in the second column, and a brief description of any changes in the third column. This will provide a simple method for interested parties to quickly determine the location of any existing rule in the new part and the general nature of any proposed changes. Appendix C provides a cross reference table going from the new rules to the Part 81 and/or Part 83 rule sections.

7. *Subpart A—General Information.* This subpart contains a description of the basis and purpose of the regulations governing the maritime radio services and definitions of terms used throughout Part 80. Because of the commonality of definitions in Parts 81 and 83, the creation of a single "Part 80" reduces by nearly 50 percent the space devoted to definitions. We have deleted some unnecessary terms, clarified others and added a few new definitions. We also consolidated the definitions and put them in alphabetical order. This format change should be easier to use than the existing practice which places definitions in separate rule sections according to the specific radio service or general classification with which the term is most often associated. In addition a new section is added that lists the other rule parts that are referenced in Part 80, such as Part 1 which contains the Commission's general rules of practice and procedure.

8. *Subpart B—Applications and Licenses.* This subpart consists of the application and license requirements for stations in the maritime radio services. Similar sections appearing in Parts 81 and 83 have been consolidated. Unnecessary rules have been deleted. Many other rules have been simplified and clarified. Further, a number of sections which repeat general rules of practice and procedures contained in Part 1 have been deleted. Since the rules in Part 1 are determinative, it is not necessary to repeat them. Much of this information is also contained on application forms or in FCC Bulletins. A substantive change made in this subpart is the deletion of the requirement for coast stations using telegraphy to report the establishment of new transmitter dispatch points. These reports are no longer utilized.

9. *Subpart C—Operating Requirements and Procedures.* In this subpart the general operating requirements and procedures applicable to stations in the maritime services have been assembled. Superfluous material has been deleted and many rules have been revised for clarity. No substantive changes are proposed.

10. *Subpart D—Operator Requirements.* The operator requirements and license classifications contained in Parts 81 and 83 have been merged, reorganized and rewritten in this subpart. Extraneous text has been deleted. Subpart D provides an updated presentation of operator requirements in the maritime services.

11. *Subpart E—Technical Requirements.* This subpart consolidates the general technical requirements for stations in the maritime services. The general technical material has been rewritten to simplify and clarify the rules. One substantive change in the material covered in this subpart concerns equipment authorization requirements for certain radio equipment required on large oceangoing ships.[3] Currently much of this equipment is required to be type approved by the Commission. This necessitates the examination and measurement of one or more sample units by the Commission's laboratory. We propose to amend the rules to require type acceptance, which is based on the test data and representations submitted by the manufacturers. This proposal is consistent with the equipment authorization program for other maritime radio equipment used on board ships and thus would have no effect on safety. Such a change would relieve a burden on the Commission's resources and permit faster authorization of equipment. However, we propose to continue to require manufacturers to submit a sample with applications for type acceptance of compulsory ship equipment so spot checks can be conducted if necessary.

12. *Subpart F—Equipment Authorization for Compulsory Ships.*[4] This subpart sets forth the special technical requirements for certain radio equipment which must be carried on large oceangoing ships. Such equipment includes radiotelegraph transmitters, radiotelegraph auto alarms, automatic-alarm-signal keying devices, survival craft radios, watch receivers and radar equipment. These rules have been reorganized and minor changes have been made for clarity.

13. *Subpart G—Safety Watch Requirements and Procedures.* The listening watch requirements imposed on stations in the maritime radio services are contained in applicable treaties and statutes.[5] This subpart consolidates these requirements. Many of the rules have been rewritten and reorganized. No substantive changes in watch requirements are proposed.

14. *Subpart H—Frequencies.* The frequencies available for assignment in the maritime radio services are listed in this subpart. Currently Parts 81 and 83 contain many repetitive tables listing frequencies available to stations for specific uses. To avoid redundancy and to make the rules easier to use, Subpart H sets forth the frequencies regularly available for assignment in the maritime services along with any applicable conditions or limitiations. Rather than merely provide a list in frequency order, we have organized the maritime frequencies in major categories in accordance with the type of communications service for which they are utilized. For example, telegraphy, a major category, is subdivided into tables of frequencies available for manual Morse telegraphy, narrow-band direct-printing radioteletype and facsimile communications.[6] We believe this arrangement will greatly simplify an applicant's search for an appropriate frequency/band and make it easier to determine the permitted uses of particular frequencies. We specifically desire comments concerning the utility of this centralized approach and the proposed organization of the frequency list. A substantive change is proposed to eliminate a number of arbitrary geographic limitations on the assignment of frequencies to coast stations. For example, some medium and high frequencies are now only available for assignment to public

[3] Large oceangoing ships refers to ships subject to Title III, Part II of the Communications Act. Currently the telegraph installation, survival craft radios, and radar equipment thereon must be type approved.

[4] Compulsory ships refers to vessels required by treaty or statute to be equipped with a radio installation.

[5] Documents containing watch requirements include: the International Radio Regulations, T.I.A.S. ——; the International Convention for the Safety of Life at Sea, T.I.A.S. 9700 (Safety Convention); the Agreement Between the United States of America and Canada for Promotion of Safety on the Great Lakes by Means of Radio, T.I.A.S. 7837, amended T.I.A.S. 9352 (Great Lakes Radio Agreement); the Vessel Bridge-to-Bridge Radiotelephone Act, 33 U.S.C. 1201 *et seq.*; The Communications Act of 1934, as amended, 47 U.S.C. 151 *et seq.*

[6] The other major categories of frequencies include: telephony, safety and distress, digital selective calling, automated systems, on-board communications, marine satellite, radiodetermination, fixed service, and shared bands.

telephony coast stations located in specified cities. The geographical areas associated with public coast manual Morse telegraphy stations have also been eliminated. Instead we would rely on technical parameters and propagation predictions to determine whether an assignment would result in harmful interference to an existing station. Further we note that certain low and medium frequencies have been assigned to very few stations. We urge licensees and potential licensees of frequencies in the low and medium bands to comment on the present and future uses of these frequencies in the maritime services.

15. *Subpart I—Station Documents.* The documentation requirements for maritime stations are consolidated in Subpart I. As indicated in footnote 1 above, 47 rule sections containing unnecessary record keeping and reporting requirements were deleted in the *Report and Order* in PR Docket No. 82-798. The remaining documentation requirements, most of which are based on statutory/treaty requirements, pertain primarily to public coast stations and compulsory ship stations. This subpart updates, simplifies and merges these remaining requirements. Additionally, we propose to eliminate the requirement in Section 83.405(b) for ships subject to the Safety Convention to keep a record of the installation and maintenance of radar stations. This documentation is not required by the Safety Convention and is not used by the Commission for licensing or during ship inspections. To the extent such documentation is useful to ship operators, they may keep it in any form desired.

16. *Subpart J—Public Coast Stations.* Subpart J merges and simplifies the rules applicable to public coast stations. These stations provide a common carrier service for ships and boats and interconnect with the public telephone system. Further, we propose to delete the five *administrative classifications* of public coast stations. Currently, Part 81 divides public coast stations into the following classes: (1) Public high seas telegraphy stations, (2) public high seas telephony stations, (3) public regional telegraphy stations, (4) public regional telephony stations, and (5) public local service (VHF) coast stations. These classifications merely reference the frequency band and type of service authorized to be provided by a station. A licensee may have any combination of these "classes" authorized at a given location if the frequencies are available for assignment. Therefore, the five administrative classifications of public coast stations are unnecessary. The applicants, the users and the Commission's staff can readily identify the characteristics of a public coast station's service by the authorized frequency bands and emissions.[7]

17. *Subpart K—Private Coast Stations and Marine Utility Stations.* We propose to rename "limited coast stations" as "private coast stations." These stations serve the private business and operational needs of ships and marine service companies. We feel the word "private" better describes the scope of service of these stations and that this usage is consistent with usage in other parts of the rules. Additionally, we propose to expand the scope of service of private coast stations and marine utility stations to include the communications currently provided by shipyard base stations and shipyard mobile stations. Shipyard stations perform a secondary communications function for licensees of private coast stations and marine utility stations. By expanding the scope of service of private coast and marine utility stations and eliminating shipyard stations, the rules and licensing procedure would better reflect operational practices, and another unnecessary administrative classification could be deleted. Besides the above proposals, some minor revisions are proposed for clarification.

18. *Subpart L—Operational Fixed Stations.* The rules governing the use of frequencies in the 72-76 MHz band for operational control of other maritime stations, repeaters, relays and the like, are located in this section. These frequencies are available on a shared basis with the aviation and land mobile services. In order to remain consistent with the rules for similar uses of this band in the aviation and land mobile services only minor editorial changes have been made.

19. *Marine Fixed Stations—Deleted.* Sections 81.451 to 81.461 currently govern the services of "marine fixed stations". These stations are used to communicate with public coast stations on medium frequencies when other communications facilities are unavailable in an area. Although this class of station once fulfilled a need in remote areas, there are now only two licensed marine fixed stations. We propose to "grandfather" indefinitely these two stations and eliminate this class of station. If requirements develop for such point-to-point communications with a maritime station, they would be addressed under our waiver procedures on a case-by-case basis.

20. *Subpart M—Radiodetermination Stations.* This subpart sets forth the rules concerning radionavigation and radiolocation stations on land. The existing rules in Subpart K of Part 81 have been reorganized and clarified.

21. *Subpart N—Maritime Support Stations.* This subpart consolidates under the heading "maritime support stations" four classes of stations currently licensed as (1) shore radar test stations, (2) marine receiver test stations, (3) shore radiolocation test stations, and (4) shore radiolocation training stations. These four classes of stations provide for training, testing, or the demonstration of maritime radio equipment. We believe the rules will be simpler and easier to understand if these four classes of stations are merged into a single class. The rules proposed in Subpart N are intended to accomplish this purpose.

22. *Subpart O—Alaska Fixed Stations.* The Alaska fixed station rules were recently revised in the *Report and Order* in PR Docket No. 83-464.[8] The amendments and reorganization of those rules (Subpart Q of Part 81) in this subpart conform to the Part 80 format and provide further clarification of Alaska fixed station communications.

23. *Subpart P—Standards for Computing VHF Coverage.* This subpart sets forth the procedures and standards for computing the service area contour of VHF maritime stations on land. These rules have been taken substantially intact from the existing Subpart R of Part 81 except that profile plots are only required when inspection of the topography indicates there may be a coverage problem.

24. *Subpart Q—Compulsory Radiotelegraph Installations For Vessels 1600 Gross Tons.* The radiotelegraph and other radio equipment requirements mandated by Part II of Title III of the Communications Act or the Safety Convention for ships over 1600 gross tons appear in this subpart. Although we have simplified and clarified a number of these rules, most of the provisions are based on the language in the Communications Act or the Safety Convention and thus remain similar to the current rules appearing in Subpart R of Part 83.

25. *Subpart R—Compulsory Radiotelephone Installations For Vessels 300 Gross Tons.* This subpart contains the radiotelephone installation requirements specified by Part II of Title

[7] For example, "high seas" simply means high frequencies are assigned, "regional" means medium frequencies are assigned, and "local service" means very high frequencies are assigned to the station.

[8] Released August 3, 1984, FCC 84-379, 49 FR 32194.

III of the Communications Act and the Safety Convention for ships between 300 gross tons and 1600 gross tons. As in the case of the rules applicable to compulsory radiotelegraph ships most of these provisions are based on the language of the Communications Act and the Safety Convention. Some sections have been simplified and clarified. However, these rules are substantially the same as they appear in Subpart S of Part 83.

26. *Subpart S—Compulsory Radiotelephone Installations for Small Passenger Boats.* The radiotelephone equipment carriage requirements for vessels transporting more than six passengers for hire are contained in this subpart. These rules implement the provisions of Part III of Title III of the Communications Act and are currently located in Subpart T of Part 83. Unnecessary and obsolete material has been deleted and many of the rules have been rewritten for clarity.

27. *Subpart T—Radiotelephone Installations Required for Great Lakes Vessels.* Subpart T incorporates the provisions of the Agreement Between the United States of America and Canada for Promotion of Safety on the Great Lakes by Means of Radio. Because they reflect the language of the treaty, only minor editorial changes have been made in these rules which currently are located in Subpart U of Part 83.

28. *Subpart U—Radiotelephone Installations Required by the Vessel Bridge-to-Bridge Radiotelephone Act.* The Vessel Bridge-to-Bridge Radiotelephone Act requires certain ships to be equipped with a VHF radio on the navigational bridge or at the main control station. The rules implementing the legislation are currently found in Subpart X of Part 83. We propose to simplify and clarify a number of the provisions in this subpart, particularly those describing the transmitter and receiver characteristics.

29. *Subpart V—Emergency Position Indicating Radiobeacons (EPIRB's).* Subpart V consolidates and clarifies the rules relating to the various emergency position indicating radiobeacons mandated or permitted to be carried on ships and boats. We feel that placing this information in one subpart will be more convenient and make the rules easier to use.

30. *Subpart W—Future Global Maritime Distress and Safety System.* This subpart is reserved for the rules which will implement the Future Global Maritime Distress and Safety System (FGMDSS) being developed by the International Maritime Organization. It is expected that this system will begin to be phased-in about 1990. The FGMDSS will replace the present high seas maritime distress and safety system which relies on ship-to-ship distress alerting using manual Morse telegraphy. The future system will rely primarily on ship-to-shore distress alerting using satellite and high frequency terrestrial systems employing digital selective calling techniques.

31. *Subpart X—Voluntary Radio Installations.* This subpart consolidates the rules for the use of maritime radio on board craft which are not required to carry such equipment. Generally, the operational and procedural requirements are less stringent for voluntarily equipped ships than for compulsorily equipped ships. The applicable rules have been reorganized and revised to clarify the requirements for applicants and licensees who voluntarily put maritime radio installations on board their ships and boats.

Conclusion

32. We believe that the changes proposed in the proceeding will significantly simplify and clarify the requirements for licensing and operating maritime radio stations. In any such undertaking there are likely to be areas where further consolidations, reductions in regulatory burdens, or better explanations of requirements could be made. We urge interested parties to review this proposal and recommend improvements. We are providing 120 days for comments and 60 days for reply comments. Concurrent Commission proceedings which affect the maritime radio services will be incorporated in the final action in this proceeding.

33. Accordingly, we propose to remove Parts 81 and 83 of the rules and add new Part 80 to consolidate, clarify, simplify and update the maritime radio services rules and regulations. This Notice of Proposed Rule Making is issued under the authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303.

34. Under procedures set out in § 1.415 of the Rules and Regulations, 47 CFR 1.415, interested persons may file comments on or before September 23, 1985, and reply comments on or before November 22, 1985. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

35. In accordance with the provisions of § 1.419 of the Rules and Regulations, 47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

36. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rule making until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of the oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules, 47 CFR 1.1231.

Regulatory Flexibility Initial Analysis

37. *Reason for Action.* This proposal would consolidate and reorganize the

rules applicable to the maritime radio services now contained in Parts 81 and 83 of Title 47 of the Code of Federal Regulations.

38. *Objective.* This action would reduce the redundancy now contained in the two rule parts, remove obsolete rules and language, and simplify and clarify the requirments for licensing and operating radio stations in the maritime services. New Part 80 would be easier for the public to use and understand.

39. *Legal Basis.* The amendments proposed in this proceeding are authorized under sections 4(i) and 303 of the Communications Act of 1934, as amended, which authorize the Commission to make such rules and regulations as the public convenience, interest, or necessity require regarding the use of the radio spectrum.

40. *Description, Potential Impact, and Number of Small Entities Affected.* The reorganization and revision of the maritime services rules will reduce the size of the rules by about 40 percent and make them easier to use and understand. The reduction in the size of the rules would reduce the printing costs and the improved organization and wording should save time in researching the requirements for the licensing and operation of maritime stations. The benefits would accrue to all interested parties, large and small entities alike. However, we are unable to quantify these effects. In individual cases the savings in time and money would be small and would not result in a significant economic impact on any entities.

41. *Reporting, Record Keeping and other Compliance Requirements.* No new requirements would be imposed.

42. *Fedeal Rules Which Overlap, Duplicate or Conflict with This Rule.* The maritime radio services rules implement provisions of number of statutes and treaties. These include the international Radio Regulations, the International Convention for the Safety of Life at Sea, the Agreement between the United States of America and Canada for Promotion of Safety on the Great Lakes by Means of Radio, the Vessel Bridge-to-Bridge Radiotelephone Act, and the Communications Act. These rules bring together the requirements regarding the use of maritime radio. The proposal incorporates the statutory/treaty requirements currently contained in Parts 81 and 83. No new statutory/treaty based requirements are being implemented in this proceeding.

43. *Significant Alternatives.* An alternate regulatory approach would consist of revising and rewriting the rules essentially in their current formats. Part 81 contains rules applicable to maritime radio stations on land while Part 83 deals with radio stations on board ship. As stated above, we believe that reorganizing the rules into one part allows the elimination of considerable redundancy due to the commonality of these rules, a greater reduction in the size of the rules and therefore printing costs, and a format that is easier to use.

44. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1990 and found to impose new or modified requirements or burden upon the public. Implementation of any new or modified requirement or burden will be subject to approval by the Office of Management and Budget as prescribed in the Act.

45. It is ordered, That a copy of this Notice of Proposed Rule Making shall be sent to the Chief Counsel for Advocacy of the Small Business Association.

46. In order to save approximately $34,400 in printing costs, we are publishing the Notice of Proposed Rule Making in the **Federal Register** without the appendixes which contain the proposed rules and cross reference tables. Copies of this document including the appendixes will be available to the public on request. This procedure satisfies notice requirements as well as the needs of the public while saving the Commission significant printing costs. Regarding requests for copies of the Notice of Proposed Rulemaking and Appendixes or questions on matters covered in this document, contact Robert Mickley, Robert DeYoung, William Berges or Nicholas Bagnato, Federal Communications Commission, Washington, D.C. 20554 (202) 632-7175.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 85-12798 Filed 6-3-85; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status and Critical Habitat for the Least Bell's Vireo; Correction

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; correction.

SUMMARY: This corrects segments of the critical habitat portion of the proposed rule of the May 3, 1985, **Federal Register** (50 FR 18968-18975). Other portions of the text are also corrected. The document concerned proposed endangered status and critical habitat for the Least Bell's Vireo .

DATES: Comments from all interested parties must be received by July 2, 1985. Public hearing requests must be received by June 17, 1985.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Regional Director, U.S. Fish and Wildlife Service, 500 NE. Multnomah Street, Suite 1692, Portland, Oregon 97232. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne S. White, Chief, Division of Endangered Species, U.S. Fish and Wildlife Service, 500 N.E. Multnomah Street, Suite 1692, Portland, Oregon 97232 (503/231-6131 or FTS 429-6131).

SUPPLEMENTARY INFORMATION: The following corrections are made in FR Doc. 85-10808 appearing as Part III on pages 18968-18975 in the issue of May 3, 1985:

1. On page 18974, paragraph 7 is to read as follows:

7. *San Diego River, San Diego County* (Index map location G).

T15S, R1W and T15S, R2W: commencing at the intersection of the Second San Diego Aqueduct and Mission Gorge Road; thence eastward along said road to the western-most intersection with Father Junipero Serra Trail; thence northward and eastward along said trail to the eastern-most intersection of said trail and said road; thence eastward along Mission Gorge Road to its intersection with Carlton Hills Blvd.; thence northward to its intersection with Carlton Oaks Drive; thence westwared along said drive to its eastern-most intersection of Inverness Road; thence westward along said road to its intersection with Carlton Oaks Drive; thence westward along said drive to its intersection with Mast Street; thence westward and southward along the 320-foot contour to its intersection with the Second San Diego Aqueduct on the north side of the San Diego River; thence southeast along said aqueduct to its intersection with Mission Gorge Road.

2. The map following paragraph 7 on page 18974 is corrected by the addition of "Carlton Hills Blvd." as a label for the eastern-most boundary line of the critical habitat area, which crosses the San Diego River.

3. On page 18972, at bottom of column 1, paragraph 1 is corrected to read as follows:

1. *Santa Ynez River, Santa Barbara County* (Index map location A).

T5N, R27W: Sec. 1 and 12.

In addition, all lands within the following circumscribed area: beginning at the northeast corner of Sec. 1, T5N, R27W; thence east approximately 1.85 miles to the intersection of Mono Creek and the Los Prietos Y Najalayegua land grant boundary; thence south approximately 2.5 miles; thence east approximately 2.6 miles to Agua Caliente Creek at a point about 0.4 mile north of the Pendola Guard Station; thence south 1.0 mile; thence west 2.5 miles to the Los Prietos Y Najalayegua land grant boundary; then west and north along said land grant boundary to the northeast corner of Sec. 24, T5N, R27W; thence north approximately 1.0 mile to the southwest corner of Sec. 12, T5N, R27W.

4. On page 18973, column 3, lines 17 and 18, the name of the road is corrected to read "Via Puerta Del Sol" not "Via Puerta Del."

5. On page 18970, column 1, line 28, the words "construction projects" are replaced by "severe flooding."

6. On page 18970, column 2, line 19, the number of acres should read "44,500."

7. On page 18970, column 2, line 15 from bottom is corrected to read "(1) removal or destruction of riparian."

8. On page 18970, column 3, line 23 from bottom is corrected to read "Marine Corps has coordinated with the."

Dated: May 30, 1985.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85-13386 Filed 6-3-85; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 20

Migratory Bird Hunting; Supplemental Proposals for Migratory Game Bird Hunting Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Supplemental proposed rule.

SUMMARY: This document supplements Federal Register Document 50 FR 6386 published on February 15, 1985, which presented several duck harvest strategies that were being considered by the Service for possible implementation during the 1985–86 duck hunting season, and Federal Register Document 50 FR 10276 published on March 14, 1985, which notified the public that the U.S. Fish and Wildlife Service proposes to establish hunting regulations for certain migratory game birds during 1985–86, and provided information on certain proposed regulations.

This proposed rulemaking provides supplemental proposals and minor corrections for both the "early" and "late" season migratory bird hunting regulations frameworks. The early hunting seasons open prior to October 1 and include seasons on mourning doves; white-winged doves; white-tipped doves; band-tailed pigeons; woodcock; common snipe; rails, moorhens, and gallinules; September teal; sea ducks; early duck seasons in Florida, Iowa, Kentucky, and Tennessee; experimental early goose season framework in a portion of Michigan; special sandhill crane—Canada goose season in southwestern Wyoming; sandhill cranes in the Central Flyway and Arizona; migratory bird hunting seasons in Alaska, Hawaii, Puerto Rico, and the Virgin Islands; and special falconry seasons. Late seasons open about October 1 or later and include most waterfowl and seasons not previously selected for other species. The Service annually prescribes hunting regulations frameworks within which the States select specific seasons. The effect of this proposed rule is to facilitate establishment of early and late season migratory bird hunting regulations for the 1985–86 season.

DATES: The comment period for proposed migratory bird hunting season frameworks for Alaska, Hawaii, Puerto Rico, and the Virgin Islands will end on June 20, 1985; that for other early season proposals will end on July 15, 1985; and that for late season proposals on August 19, 1985. Comments and tribal requests concerning the proposed guidelines for migratory bird hunting on Indian reservations and ceded lands, must be received no later than July 1, 1985. Public Hearings on proposed early and late season frameworks will be held on June 20 and August 1, 1985, respectively (50 FR 10276).

Written comments and suggestions concerning the environmental assessment on Indian hunting rights should be sent to MBMO by July 8, 1985.

ADDRESS: Send comments to: Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Main Interior Building, Room 3252, Washington, D.C. 20240. The Public Hearings will be held in the Auditorium of the Department of the Interior Building on C Street, between 18th and 19th Streets, NW., Washington, D.C. Notice of intention to participate in this hearing should be sent in writing to the Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Main Interior Building, Room 3252, Washington, D.C. 20240

Comments received on the supplemental proposed rulemaking will be available for public inspection during normal business hours in Room 536, Matomic Building, 1717 H Street, NW., Washington, D.C. Addresses for those tribes wishing to submit proposals for special migratory bird hunting seasons may be found in the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Rollin D. Sparrowe, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Matomic Building—Room 536, Washington, D.C. 20240 (202–254–3207).

SUPPLEMENTARY INFORMATION: The annual process for developing migratory game bird hunting regulations deals with regulations for early and late seasons. Early seasons include those which open before October 1, while late seasons open about October 1 or later. Regulations are developed independently for early and late seasons. The early season regulations cover mourning doves; white-winged doves; white-tipped doves; band-tailed pigeons; rails; moorhens and gallinules; woodcock; common snipe; sea ducks in the Atlantic Flyway; teal in September in the Central and Mississippi Flyways; early duck seasons in Florida, Iowa, Kentucky, and Tennessee; an experimental early goose season framework in a portion of Michigan; sandhill cranes in the Central Flyway and Arizona; a special sandhill crane-Canada goose season in southwestern Wyoming; doves in Hawaii; migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; and some special falconry seasons. Late seasons include the general waterfowl seasons; special seasons for scaup and goldeneyes; extra scaup and teal in regular seasons; coots, moorhens, gallinules, and snipe in the Pacific Flyway; and other special falconry seasons.

Certain general procedures are followed in developing regulations for both the early and the late seasons. Initial regulatory proposals are announced in a **Federal Register** document published in March and opened to public comment. These proposals are supplemented, as necessary, with additional **Federal Register** notices. Following termination of comment periods and after public hearings, the Service further develops and publishes proposed frameworks for times of seasons, season lengths, shooting hours, daily bag and possession limits, and other regulatory elements. After consideration of additional public comments, the Service

publishes final frameworks in the **Federal Register**. Using these frameworks, State conservation agencies then select hunting season dates and options. Upon receipt of State selections, the Service publishes a final rule in the **Federal Register**, amending Subpart K of 50 CFR Part 20, to establish specific seasons, bag limits, and other regulations. The regulations become effective upon publication. States may prescribe more restrictive seasons than those provided in the final frameworks.

The regulations schedule for this year is as follows. In the February 15, 1985, **Federal Register** (50 FR 6366) the Service presented a series of duck harvest strategies that were being considered for possible implementation in the 1985–86 duck hunting season. On March 14, 1985, the Service published in the **Federal Register** (50 FR 10276) a proposal to amend 50 CFR Part 20, with public comment periods ending as noted above. The proposal dealt with establishment of seasons, limits and other regulations for migratory birds under §§ 20.101 through 20.107 and 20.109 of Subpart K. This document is the second in a series of proposed, supplemental, and final rules for migratory game bird hunting regulations. All comments on the March 14 proposal received through May 3, 1985, have been considered in developing this document. Comment periods on this second document are specified above under **DATES**. Final regulatory frameworks for migratory game bird hunting seasons for Alaska, Puerto Rico, and the Virgin Islands are scheduled for **Federal Register** publication on or about July 11, 1985, and those for early seasons in other areas of the United States on July 26, 1985; and those for late seasons on September 2, 1985.

On June 20, 1985, a public hearing will be held in Washington, D.C., as announced in the **Federal Register** of March 14, 1985, (50 FR 10276), to review the status of mourning doves, woodcock, band-tailed pigeons, white-winged and white-tipped doves, rails, moorhens and gallinules, common snipe, and sandhill cranes. Proposed hunting regulations will be discussed for these species and migratory game birds in Alaska, Puerto Rico and the Virgin Islands; September teal seasons in the Mississippi and Central Flyways; special September waterfowl seasons in designated States; special sea duck seasons in the Atlantic Flyway; and special falconry seasons. Statements or comments are invited.

On August 1, 1985, a public hearing will be held in Washington, D.C., as announced in the **Federal Register** of March 14, 1985, (50 FR 10276), to review the status and proposed hunting regulations for waterfowl not previously discussed at the June 20 public hearing.

This supplemental proposed rulemaking describes a number of changes which have been proposed by commentors on the original framework proposals published on March 14, 1985, in the **Federal Register**. Two minor errors are corrected.

Review of Public Comments and the Service's Response

Written Comments Received

As of May 3, 1985, the Service had received comments on proposals published in the March 14, 1985, **Federal Register** (50 FR 10276) 21 correspondents, including 5 individuals, 2 organizations, 10 State agencies, and 4 waterfowl flyway councils. In some instances, the communications did not specifically mention the open comment period or the regulatory proposals. however, because they were received during the comment period and generally to migratory bird hunting regulations, they are treated as comments. These comments as well as comments received on duck harvest strategies published in the February 15, 1985, **Federal Register** (50 FR 6366) are discussed below with particular attention to new proposals, and modifications, clarifications or corrections to previously described proposals. Wherever possible, they are discussed under headings corresponding to the numbered items in the March 14, 1985, **Federal Register** (50 FR 10276). Comments received subsequent to May 3, 1985 as well as those received at the June 20, 1985, public hearing will be addressed in the next supplemental proposal to be published in the **Federal Register** in early July.

General Comments

Except for specific recommendations identified below, theCentral Flyway Council recommended adoption of the proposed regulations published in the March 14, 1985, **Federal Register** pertinent to seasons in the Central Management Unit and the Central Flway for all migratory game birds.

The Pacific Flyway Council recommended that no changes be made in the season frameworks for mourning doves, white-winged doves, band-tailed pigeons, and the early season frameworks for Alaska from those of 1984–85 except as identified below.

Review of Duck Harvest Strategies

The U.S. Fish and Wildlife Service, with support from the Flyway Councils and other organizations, joined with Canada in a 5–year program of stablized duck regulations beginning with the 1980–81 season. During the program, season length and bag limits were unchanged from those established for the 1979–80 hunting season. Although the 1984–85 hunting season marked the final harvest season in the program, field activities, including banding, radio-telemetry, and nesting studies will continue through 1985. The program has provided both countries the opportunity to study those factors associated with the regulation of duck numbers, including specific investigations of nonhunting mortality, hunting mortality, and recruitment, in the absence of annual changes in season lengths and bag limits. Data analysis and evaluation of the studies will extend into 1986, so development of the 1985–86 and 1986–87 duck hunting regulations will be without benefit of some of the results of the studies.

In the February 15, 1985, **Federal Register** (at 50 FR 6366) the Service announced that because of the recent prolonged drought on the duck breeding grounds of prairie Canada and the concern by the Service and other wildlife agencies and organizations about the declining status of mallards and northern pintails, particularly breeding populations of mid-continent origin, various harvest strategies would be reviewed prior to establishing duck hunting regulations for 1985–86. Conservative harvest strategies that had been considered to date by the Service for possible implementation during the 1985–86 duck hunting season were given as follows:

1. *Stabilized Regulations.* Establish retrictive regulations in each of the 4 waterfowl flyways that would remain in effect for a predetermined length of time.

2. *Annual Assessment.* Establish requlations by flyway on an annual basis in response to fall flight forecasts of duck numbers and/or other criteria.

3. *Prescription Regulations.* Establish a set of regulations in each flyway, containing specific regulatory responses based on population size and/or habitat conditions. Season lengths and bag limits would be established on the basis of harvest reduction objectives, i.e., if the estimated breeding population of mallards in surveyed areas falls below a certain level, regulations would be developed to decrease the harvest by an established percentage. These restrictions would remain in effect until a predetermined population level is attained.

4. *Other Options.* Influence harvest by adjusting or eliminating zones, split

seasons, bonus bags and special seasons, point system bag limits, framework dates, season length and other special considerations.

The document invited comments and recommendations on those options and provided an opportunity to bring other alternatives forward at an early date.

Summary of Comments

Comments on the harvest strategies have been received (as of May 3, 1985) from 22 State wildlife agencies, 2 Waterfowl Flyway Councils, 16 organizations, and 129 individuals.

Of the 22 states submitting comments, 5 (Arizona, Illinois, Minnesota, Missouri, and New Mexico) expressed a preference for stabilized regulations, while prescription regulations was the strategy advocated by 5 (Massachusetts, New Jersey, New York, South Carolina, and Utah). Two states (Florida and Virginia) indicated support for the option of regulations establishment by annual assessment. With the exception of California, the remaining states (Alabama, Arkansas, Kentucky, Montana, Oklahoma, Pennsylvania, South Dakota, West Virginia, and Wisconsin), supported 2 or more of the options, suggested a combination of 2 or more of the options, or endorsed options other than those provided. California indicated their belief that commenting directly to the Service on harvest issues would be contrary to the flyway management concept, therefore the State would continue to work with member states of the Pacific Flyway in developing duck harvest strategies.

Arizona stated it appears prudent to adopt restrictive regulations as hunting mortality is only partially compensatory. The State asked that the Service carefully evaluate the stabilized regulations concept before endorsing another harvest strategy. Illinois indicated restrictive stabilized regulations was the most viable option especially if it would add to the data base of the initial stabilized regulations study. Minnesota expressed support for a new and conservative period of stabilized regulations while the initial period of stabilized regulations is being evaluated. Missouri stated that pending the results of the stabilized regulations study, regulations in the interim should reflect concern for current waterfowl population levels and that stabilized regulations was their preferred alternative provided that regulations include a specified period of application, and fail-safe population levels allowing additional regulations restrictions during the period of stabilization. New Mexico endorsed a Central Flyway Council-Technical Committee recommendation for an additional 5 years of stabilized regulations with the provision to adjust the point values of species and sexes of ducks during the stabilized period.

Massachusetts indicated that until the stabilized regulations study is evaluated, prescription regulations tailored to each flyway would be best. New Jersey identified prescription regulations to be the strategy of choice because it would allow flyways to be managed individually based on the size of the duck population and/or habitat conditions and thereby each flyway could adjust harvest strategies to manage those species of major concern. New York expressed support for prescription regulations, wherein a stable framework is established to allow harvest at a level sustainable by a predetermined population size, as an interim action while awaiting the results of the stabilized regulations study. South Carolina recommended adoption of some type of prescription regulations should the May and July 1985 waterfowl surveys indicate no substantial increases in the population of prairie nesting mallards and northern pintails. Utah expressed support for the Pacific Flyway Council's tendency toward prescription regulations.

Florida urged that regulations established by the annual assessment approach, strictly identified as an interim action, be implemented for the 1985–86 and 1986–87 seasons while awaiting the evaluation of stabilized regulations, and that upon completion of the evaluation the issue of duck harvest strategies be revisited. Virginia indicated that while awaiting the stabilized regulations evaluation the State preferred the option to establish the 1985–86 and 1986–87 waterfowl seasons based upon the annual assessment of waterfowl numbers.

Alabama stated that should the 1985 waterfowl survey data indicate that restrictions are in order, then the State supports the use of the annual assessment method or prescription regulations, but the restrictions should be directed at the major sources of the problem rather than flyway- or nation-wide.

Arkansas indicated a combination of the options would be most useful and desirable. The State suggested an overall strategy of stabilized regulations incorporating annual assessment of population levels to evaluate their relationship to previously identified triggering levels (as per "prescription regulations").

Kentucky indicated that measures that might most effectively achieve necessary reductions in duck harvest would include timing seasons throughout the flyway on a state-by-state basis to miss peak populations of target species, reducing the season length, and delaying the opening of shooting hours until sunrise.

Montana stated that positive aspects offered by a stabilized regulations format were that it could provide an excellent opportunity for gathering biological information and aid hunters to better understand and become familiar with the regulations. The State also indicated that with prescription regulations, once the guidelines have been established and the regulation format developed, state wildlife agencies have time to address future regulations changes while in the regulations process.

Oklahoma felt the strategies offered were not specific enough to determine the numerical impact of each, and although certain sex-specific regulations might help accelerate a recovery process, there are other means besides using a total regulatory process by which to improve the status of certain species of ducks as well as ducks in general.

Pennsylvania recommended the use, where necessary, of annual assessment and prescription regulations in conjunction with each other.

South Dakota supported the concept of stabilized regulations and prescription regulations stating that stabilized regulations offer excellent research opportunities and reduce hunter confusion, while prescription regulations, such as those contained in the Central Flyway Mallard Management Plan, serve as fail-safe mechanisms during periods of stabilized regulations. The State's comments were provided within the context that increasingly restrictive harvest regulations in response to continuing declines in duck numbers in the future can at best slow the current trend.

West Virginia indicated all of the harvest strategy options were acceptable.

Wisconsin stated a combination of stabilized regulations and prescription regulations would provide a reasonable harvest management strategy.

The Pacific Flyway Council endorsed the concept of stabilized duck hunting regulations but indicated it is receptive to prescription regulations to accommodate species population thresholds.

The Central Flyway Council recommended initiation of a duck harvest management program whereby current stabilized duck hunting regulations are continued with the exceptions that the point value of hen

mallards be increased to 100 points, the conventional possession limit for hen mallards be reduced to 1, and the point value of pintails be increased to 20 points. The program would continue for 5 years unless population levels identified in operational management plans are reached which trigger regulations changes.

Nine organizations submitted comments supporting the need for duck harvest restrictions in 1985–86. The Service's harvest strategies options were addressed by 5 of the organizations. Prescription regulations received support from the New Jersey Waterfowlers Association, River County Voices (Wisconsin), and the Batchtown Sportsman's Club (Illinois). The Humane Society of the United States (HSUS) urged adoption of a plan whereby through a public process optimum population levels for all waterfowl would be established and then strategies to implement them would be chosen. HSUS indicated that their interpretation of the Service's primary duty under the Migratory Bird Treaty Act, to manage migratory birds so as to attain or maintain optimum population levels, was not addressed by any of the harvest strategies. The Service's review of the need for restrictive harvest regulations in 1985–86 was commended by the Wildlife Management Institute (Institute). Commenting on the Service's strategy options, the Institute stated that any future stabilized regulations must provide for the recognition of differences among duck species, as well as yearly influences exerted on the habitats and populations, and the regulations should be oriented to duck populations and their ranges. The Institute indicated annual assessment is needed with the population status of each species and identifiable populations emphasized. In principle, the prescription regulations option was considered appropriate by the Institute; however, they felt the predetermined levels for species and population units should not be constrained by existing annual population records or based on 3-year moving averages, and permitted harvest should be related to population levels to achieve restoration potentials and numerical goals. The Institute urged completion and initiation, where necessary, of studies to improve the understanding of relationships between duck hunting regulations and duck populations.

The 4 remaining organizations, Michigan Duck Hunters Association, Madison Audubon Society, Inc. (Wisconsin), Wisconsin Waterfowlers Association, and LaCrosse County Conservation Alliance (Wisconsin), supported the need for restrictive duck harvest regulations in 1985–86 and all recommended a reduction in the bag limit for ducks rather than a shortening of duck season length.

Seven letters in opposition to any restrictive change in duck hunting regulations for 1985–86 were received from the following organizations: The Wildlife Legislative Fund of America, Ducks Unlimited, Waterfowl Habitat Owners Alliance (California), New York State Conservation Council, New York State Brotherhood of Sportsmen, Federated Sportsman's Clubs of Ulster County, Inc. (New York), and Southwest Louisiana Convention and Visitors Bureau. One issue recurring in most of the letters was that no change from the 1984–85 duck hunting regulations frameworks should be made unless and until the 5-year stabilized regulations study has been evaluated. The 2 New York State organizations and the club from Ulster County recommended a longer duck hunting season. The Convention and Visitors Bureau of southwest Louisiana opposed any regulations restrictions because of the economic hardships that would result on the local tourism industry.

One hundred twenty-nine individuals submitted comments on the possibility of duck harvest restrictions in 1985–86. One hundred six of those commenting were in general support of the need for duck harvest restrictions beginning this year but there was very little consensus on the management action(s) to be implemented. The comments of 23 individuals dismissed the need for harvest restrictions.

Response: The Service has reviewed and considered all comments and recommendations received as a result of the February 15 Notice. Although there was a broad range of responses more comments favored stabilized regulations than any other harvest strategy. A recurring theme among supporters of stabilized regulations was that such regulations should be continued until the results of the recent 5-year study are compiled and analyzed, but that breeding population data should be monitored annually and any needed protection should be afforded breeding populations of mallards and northern pintails. Other comments noted that the 5-year stabilized regulations study was widely accepted by Flyway Councils, State wildlife agencies, and hunters, and that continuation of stabilized regulations would add to the existing study data base and would offer additional research opportunities.

Considerable support was also expressed for prescription regulations. In practice these functions somewhat like stabilized regulations but contain more action points and may be more specific in the response required. They may be effectively combined with stabilized regulations frameworks.

The Service notes the comments of the Pacific Flyway Council and Central Flyway Council in regards to harvest strategies. The specific Council recommendations will receive further consideration during the current regulatory cycle.

The individual comments contained many thoughts about the resource and the sport itself. There was, however, general support for some type of duck harvest restriction. A common recommendation was to reduce the bag limit on mallards, particularly hens, and/or pintails.

Based on the preceding comments and on discussions with our Canadian counterparts, the Canadian Wildlife Service (CWS), the Service believes the needs of the duck resource and the resource users can best be served by a continuation of some form of a stabilized regulations strategy until the results of the 5-year cooperative study become available. There are, however, strong concerns in the United States and Canada regarding current population levels of mallards and northern pintails. These concerns were first expressed in 1984 and more recently in the February 15 and March 14, 1985, Federal Register. While waterfowl hunting regulations in the United States and Canada are the individual responsibility of each country, waterfowl are a shared resource. The Service and CWS believe that minimum breeding population levels need to be identified for selected major species. These levels should reflect current population management objectives that can be endorsed by both countries. Below such minimum (fail-safe) population levels, joint international attention would be directed to the problem. Long-term management has been and will continue to focus on maintaining populations above these minimums, but action strategies which are triggered by populations below minimum levels would provide a means for short-term responses to periodic population fluctuations. The absence of a common minimum population level for mallards hindered discussions between the United States and Canada on appropriate regulatory actions in 1984–85—the final year of the stabilized regulations study in both countries. International agreement on minimum

population levels, especially for mallards and northern pintails, is desirable prior to the deliberations and eventual decisions on 1985–86 duck hunting regulations in the United States and Canada. Both countries recognize, however, that loss and degradation of the waterfowl habitat base is the most pressing long-range problem.

The concern for these two species results from the very low levels of their breeding populations in 1984, the importance of these ducks in numbers and in the continental harvest, and the deterioration of much of the central prairie breeding habitat as a result of extended drought since 1982. Intensive study of habitat conditions during the stabilized regulations has shown accelerated modifications in breeding marsh habitat during the prolonged drought. While some of this change may be temporary, the quality and quantity of habitat available for waterfowl use likely will remain reduced for more than one year when water conditions improve.

The Service therefore proposes to consider, as interim guidelines, the minimum population levels contained in the following strategies during discussions of 1985 regulations for mallards and northern pintails. Note that in each strategy more liberal regulations would be established only when populations levels show positive signs of substantial recovery.

Mallards: If the breeding population of mallards in the surveyed area of Canada and the United States falls below 6.5 million, the CWS and the Service will solicit the cooperation of the Provinces of Alberta, Saskatchewan, and Manitoba, and the Atlantic, Mississippi, Central, and Pacfic Flyways, in initiating regulations designed to reduce harvests on mallards of mid-continent origin by at least 25 percent from those which would have been expected had regulations remained unchanged, from the previous year, during that year's hunting season. The harvest reduction would remain in effect until the breeding population reaches or exceeds 7.5 million mallards in the surveyed area. Upon reaching these levels, the restrictions could be removed. Harvest regulations to implement this reduction would be developed through the normal regulatory process of each country.

Northern Pintails: If the breeding population of northern pintails in the surveyed area of Canada and the United States falls below 4 million, the CWS and the Service will solicit the cooperation of the Provinces of Alberta, Saskatchewan, and Manitoba and the Mississippi, Central, and Pacfic Flyways, in initiating regulations designed to reduce harvests on northern pintails by at least 25 percent from those which would have been expected had regulations remained unchanged, from the previous year, during that year's hunting season. The harvest reduction would remain in effect until the breeding population reaches or exceeds 4.7 million northern pintails in the surveyed area. Upon reaching these levels, the restrictions could be removed. Harvest regulations to implement this reduction would be developed through the normal regulatory process of each country.

Agreement on these strategies for minimum populations of mallards and northern pintails and harvest reduction objectives if populations fall below those minimum levels would establish strategies for action that could occur in 1985. A decision whether to employ these strategies will be made through the normal regulatory process, including cooperative evaluation of survey and harvest data. Further, the means of reducing harvest would be developed for each Flyway with the full participation of Flyway Councils and all interested parties, and would address species of concern. It may also be necessary to reduce the harvest of other species.

The Service emphasizes the question of appropriate harvest strategies for 1985–86 and beyond and remains open for further comment.

Note.—The following items are discussed under headings corresponding to the numbered items in the March 14, 1985 **Federal Register** (50 FR 10276).

2. Framework dates for ducks and geese in the continental United States. The Service corrects the sentence on the exception to the framework dates for Canada geese in the Mississippi Flyway in the March 14, 1985, **Federal Register** (at 50 FR 10283) as follows: *In Mississippi and designated western areas of Kentucky and Tennessee the Canada goose season framework extends to January 31, 1986.*

By letter dated March 14, 1985, Mississippi requested continuation of their experimental waterfowl framework extension during the 1985–86 duck hunting season while awaiting final harvest data from the 1984–85 duck hunting season and preparing their final report on the 6-year study.

By letter of March 19, 1985, the Lower Region Regulations Committee of the Mississippi Flyway Council recommended a January 31 framework closing date for duck hunting in all lower region States (Kentucky, Tennessee, Arkansas, Louisiana, Mississippi and Alabama) unless the Mississippi framework extension experiment documents unacceptable impacts on duck resources. The Committee also recommended a January 31 framework closing date for all Canada goose hunting in Alabama, Kentucky, Mississippi, and Tennessee, and a January 31 framework closing date for all goose hunting in Arkansas.

The Upper Region Regulations Committee of the Mississippi Flyway Council by letter dated April 16, 1985, recommended that the September 26 framework opening date for goose hunting in the western portion of Michigan's Upper Peninsula (UP) be expanded to include the entire UP.

Response: The Service desires that Mississippi's final report on their experimental duck season framework extension include data from all six years of the study and, further, that the report be completed in time for a decision about future framework dates prior to the establishment of regulations frameworks for the 1986–87 waterfowl hunting season. The recent prolonged drought on the duck breeding grounds of prairie Canada and the declining status of mallards has raised the concern of the Service and other wildlife agencies and organizations. The potential for late hunting seasons to increase mallard harvest and adversely impact ducks during a critical stage of their life cycle is of particular concern. Because of this, the Service proposes that the 1985–86 framework closing date for duck hunting in Mississippi return to that which is established for the Mississippi Flyway.

The Service notes the recommendation of the Mississippi Flyway Council Lower Region Regulations Committee regarding a later season for duck hunting in all States of the Lower Region. The Service feels that later duck seasons in other areas should not be considered until the final report on the Mississippi study and other information relating to the potential impact of late hunting seasons are evaluated. In regard to the Committee's recommendations concerning the extension of the framework closing date for geese, the Service believes this management strategy deserves further review. Although numerous late frameworks now exist for geese, the expansion of such late seasons must be considered in light of the management objectives for the various flocks. The Service believes the extension of goose season frameworks in Lower Region States should be deferred pending additional review.

In 1983 the U.S. Fish and Wildlife Service concurred with a recommendation from the Upper Region

Regulations Committee for an experimental late-September framework opening date for goose hunting in the western Upper Peninsula of Michigan. The 1985–86 waterfowl season is the final year of the scheduled 3-year study. The Service believes expanding the early goose season option to other areas should be deferred until Michigan's ongoing goose season framework extension study has been completed and their final report has been submitted to and evaluated by the Service and Mississippi Flyway Council.

8. Experimental September duck seasons. The Lower Region Regulations Committee of the Mississippi Flyway Council, by letter dated March 19, 1985, recommended that early September duck seasons be made available to all lower region States pending the evaluation of experimental seasons in Kentucky and Tennessee. The Committee also recommended that the experimental September duck seasons in Kentucky and Tennessee be continued through the 1985 hunting season in order to collect additional information on the effects of early seasons on survival rates of wood ducks.

By letter dated April 16, 1985, the Mississippi Flyway Council Upper Region Regulations Committee endorsed a request from Iowa that the State's experimental September duck season be continued through the 1985 hunting season while they prepare their final report on the 6-year study.

In the March 14, 1985, **Federal Register** (at 50 FR 10284) the Service gave notice to Florida's request for operational status of their experimental September duck season and noted that Florida's request had not received Atlantic Flyway Council review. Although the Atlantic Flyway Council has not provided recommendations on the September duck season in Florida, the Service proposes to continue it as an experimental season in 1985.

Response: The Service agrees with the Lower Region Regulations Committee that additional information is needed regarding the effects of the September duck seasons in Kentucky and Tennessee and proposes to continue these experimental seasons in 1985.

The Service supports the recommendation by the Upper Region Regulations Committee to continue the experimental September duck season in Iowa in 1985.

9. Special scaup season. By letter dated March 21, 1985, Florida requested permission to expand their Indian River Scaup Season Zone to include an area immediately adjacent to the existing zone because of significant annual concentrations of wintering scaup in the area in recent years. The new zone would be described as follows: "All open waters * * * (the) Indian River from the Titusville Causeway (SR 406) south, and all open waters of the Banana River and Newfound Harbor from the SR 520 causeway south."

Response: The Service defers action on this request pending its review by the Atlantic Flyway Council.

12. Canvasback and redhead ducks. New Jersey, by letter dated March 14, 1985, requested that the framework for their experimental special canvasback season, presently the last 11 days of the regular duck season, be changed to the last 11 days of their scaup-only season. The State expressed concern that hunter success and interest in the experimental canvasback season has been declining and may adversely affect their experimental season evaluation methods. Approval of New Jersey's request would permit a later canvasback season which they believe would be at a time when more canvasbacks might be present, hunter opportunity and interest would increase, and the State could maintain its season evaluation procedures.

By letter of April 9, 1985, the LaCrosse County Conservation Alliance (Wisconsin) requested the canvasback hunting closure in Wisconsin's Mississippi River Zone be removed.

Response: The 1985–86 season is the final year of a scheduled 3-year experimental special canvasback season in New Jersey. The Service cannot support a change in the frameworks of this ongoing experimental canvasback season until the experiment has been completed and evaluated.

The Service will review the Alliance's request but notes that a recommendation for removal of the canvasback hunting closure in Wisconsin's Mississippi River Zone has not been received from either the State or the Mississippi Flyway Council.

13. Duck Zones. Vermont, by letter dated March 6, 1985, submitted a proposal for a 3-year zoning experiment commencing with the 1985–86 waterfowl hunting season. The Lake Champlain portion of New York presently accepts the annual waterfowl season regulations chosen by Vermont. By mutual agreement, the authority for season selection in the proposed Lake Champlain Waterfowl Zone would rest with Vermont. By letter dated February 12, 1985, New York expressed support for Vermont's zoning proposal which identified the following zones:

Lake Champlain Waterfowl Zone. The proposed zone includes the United State's portion of Lake Champlain and those portions fo New York and Vermont as follows:

New York: Includes that part of New York lying east and north of a boundary running south from the Canadian border along New York Route 9B to New York Route 9 south of Champlain; south on New York Route 9 to New York Route 22 south of Keeseville; south on New York Route 22 to South Bay, along and around the shoreline of South Bay to New York Route 22; south on New York Route 22 to U.S. Highway 4 at Whitehall; and east on U.S. Highway 4 to the Vermont border.

Vermont: Includes that portion of Vermont lying west and north of a boundary running south from the Canadian border along Interstate Highway 89 to Exit 16 at U.S. Highway 7; south on U.S. Highway 7 to Vermont Route 22A; south on Vermont Route 22A to U.S. Highway 4; and west on U.S. Highway 4 to the New York border.

Remainder of State Zone. That area of Vermont not previously described. At their March 17, 1985, meeting the Atlantic Flyway Council endorsed Vermont's request to establish a Lake Champlain Zone for duck hunting.

Colorado, by letter dated March 11, 1985, submitted a proposal for a 3-year zoning experiment in the Pacific Flyway portions of Colorado. Colorado proposed the following zones:

Zone 1. Consists of the counties of Garfield, Mesa, Delta, Montrose, Ouray, San Miguel, Dolores, Montezuma, San Juan, LaPlata, that portion of Hinsdale and Mineral Counties south and west of the Continental Divide, and that portion of Archuleta County west of the Continental Divide.

Zone 2. Consist of the remainder of the Pacific Flyway portion of Colorado.

The Mississippi Flyway Council Upper Region Regulations Committee, by letter dated April 16, 1985, endorsed an Indiana request for minor boundary changes in the State's experimental duck hunting zones. Indiana proposed the following:

North Zone: That portion of the State north of a line beginning at State Highway 18 at the Illinois state line; east on State Highway 18 to U.S. Highway 31; north on U.S. Highway 31 to U.S. Highway 24; east on U.S. Highway 24 to U.S. Highway 224 at Huntington; southeast on U.S. Highway 224 to the Ohio state line.

South Zone: That portion of the State between the North and Ohio River Zone boundaries.

Ohio River Zone: That portion of the State south of a line beginning at Interstate Highway 64 at the Illinois state line; east on Interstate Highway 64 to State Route 62; east on State Route 62 to State Route 56; east on State Route 56 to State Route 156 at Vevay; east on State Route 156 to State Route 56; east on State Route 56 to U.S. Highway 50; east on U.S. Highway 50 to the Ohio state line.

Two replies were received to the Service's solicitation in 50 FR 10285

dated March 14, 1985, for additional consultation on Louisiana duck hunting regulations. The Mississippi Flyway Upper Region Regulations Committee expressed opposition to the Service proposal to allow Louisiana to zone their State east to west with Central Flyway duck season length in the West zone and Mississippi Flyway duck season length in the East zone and Mississippi Flyway bag limits in both zones. The Central Flyway Council recommended that the Service not implement the Service proposal put forth on June 13, 1984 (at 49 FR 24421), and that the duck season framework for all of Louisiana be that of the Mississippi Flyway. Further, the council requested additional consultation with the Service regarding the Louisiana report and proposal.

Response: Information available from the Service's harvest survey and banding programs generally provides for broad management decisions but in some cases has not been fully satisfactory for evaluation of experimental seasons. Future studies will likely require additional special data gathering programs to insure that suitable evaluations can be made. The Service believes it is time to assess the cumulative effect of zoning and other special management strategies on the resource, and review existing criteria for evaluation of experimental seasons with each Flyway Council. Until some better-informed judgments can be made, the Service believes that present zones should not be modified and no new duck zoning studies should be initiated. The Service intends to raise this issue for discussion at Flyway Council meetings in July.

The Service recognizes the long-term unified waterfowl season in the Lake Champlain area of Vermont and New York and believes such action represents a practical approach to waterfowl management there. Because of the desire announced above to delay further zoning studies the Service does not support the Vermont request. It is noted that the uniform season arrangement in New York and Vermont has been effective to date without recourse to zoning. The Service suggests available options such as split seasons be explored by Vermont as a means of continuing the Lake Champlain season.

The Colorado request for a new zone has not been reviewed by the Pacific Flyway Council. Further, because of interest in assessing duck zones, the Service does not support this request.

The Service recognizes that the proposed zone changes in Indiana appear relatively minor and that measures of harvest may not be sensitive enough to reflect any change as a result of such boundary changes. It is noted, however, that Indiana operated under 2 zones with no splits during the period 1977–1982. In 1983 the State initiated a study of 2 zones with the option to split the season within zones and changed this to 3 zones with the split season option in 1984. The State now proposes to modify the boundaries between the 3 zones and continue the option to split seasons within zones. The Memorandum of Agreement concerning this zoning study calls for joint State-Service analysis of harvest and hunter activity data. Measures of harvest and hunter activity may not be sensitive enough to evaluate the 3-zone split-season experimental study in Indiana even if the study were to continue for three years without change; annual changes in the study will be even more likely to preclude a meaningful evaluation. For these reasons the Service proposes to continue the zoning experiment in Indiana with boundaries unchanged from those used in 1984.

In the September 14, 1984, **Federal Register** (at 49 FR 36277) the Service identified 7 areas of concern that were noted in the 22 comments received in opposition to the proposal to apply Central Flyway duck season length and Mississippi Flyway bag limits to the West Zone in Louisiana beginning in the 1985–86 duck hunting season. The Service intends to fully explore those concerns in an Environmental Assessment targeted for publication in early 1986. The Service will consult with the flyway councils during their summer meetings (July) on the various concerns that have been expressed about the proposed duck hunting regulations for Louisiana. Because of these Service initiatives and the reduced number of mallards and northern pintails breeding on the prairies of west central Canada, the Service believes a decision on the proposed duck hunting regulations for Louisiana should be deferred in 1985 to provide all interested parties time to further review and evaluate all issues. Therefore, the Service proposes no change, at this time, in the 1985–86 duck hunting season frameworks for Louisiana from those of 1984–85.

14. Goose and brant seasons. The Service corrects the first sentence of the statement on Central Flyway goose hunting regulations in the July 1, 1980, **Federal Register** (at 45 FR 44545) as follows: *The Central Flyway Council proposed that season, bag and possession limits for dark and light geese be established independently.* * * * The omission of "season" was an oversight.

The Central Flyway Council, by letter dated April 25, 1985, recommended that Kansas be given the option to establish management units for setting light goose (includes snow, blue, and Ross') hunting seasons. Kansas had requested the following units:

Unit 1. Consists of that area of Kansas east of U.S. Highway 75 and north of Interstate Highway 70.

Unit 2. Consists of the remainder of the State.

By establishing these two units, the northeast area of Kansas would be able to continue to take advantage of the opportunity of the extended light goose hunting framework initiated in 1984, while the remainder of the State could take advantage of an early, more traditional light goose hunting season. The Council indicated Kansas' proposal is consistent with objectives and strategies of the Mid-Continent Snow Goose Management Plan.

By letter dated April 9 and April 17, 1985, respectively, the LaCrosse County Conservation Alliance and a Congressional representative from Wisconsin expressed their support for Wisconsin's request, as noted in the March 14, 1985, **Federal Register** at 50 FR 10286, for a 70-day Canada goose season in the State's Mississippi River Zone.

By letter dated April 22, 1985, the Wisconsin Department of Natural Resources expressed their concern for the increasing Canada goose depredation problems in the vicinity of Horicon National Wildlife Refuge. The State contends that the 25-day season in 1984 magnified the depredation problems in Wisconsin because landowners could not use hunting as a tool to keep geese off key crop fields for the usual 40-day period. As a short-term solution to this problem the State seeks a 40-day hunting season in the Horicon and Central zones to occur within the periods October 12–November 16 and December 7–15.

Wisconsin believes long term approaches to the depredation problems should consider placing future quota increases into the Horicon Zone, improved depredations control techniques, and longer season options with multiple splits or day hunts.

Wisconsin reports it is necessary to order goose application forms and tags soon. In the absence of any action by the Mississippi Flyway Council MVP (Mississippi Valley Population of Canada geese) Committee in March the State seeks Service agreement on these recommendations.

Response: The Service concurs with the Central Flyway Council recommendation regarding light goose hunting in Kansas.

The Service remains hopeful that additional recommendations concerning management of MVP geese will be forthcoming from the Mississippi Flyway Council. Discussions between the Service and States are proceeding however, in an effort to improve the management of this flock while recognizing individual State needs. The Mississippi River Zone in Wisconsin will be considered in a later document.

The Service recognizes the importance of goose depredation problems in Wisconsin and elsewhere. However, the recommendation by Wisconsin represents a sharp departure from the regulations jointly developed with the MVP States in 1984. The Service believes it essential to consider comments from all sources before reaching a decision on the Wisconsin proposal, and defers action until the late-season regulations are considered in August.

16. *Sandhill cranes.* The Pacific Flyway Council, by letter dated April 11, 1985, and the Central Flyway Council, by letter dated April 25, 1985, recommended the experimental sandhill crane-Canada goose season in Lincoln County, Wyoming be given operational status but the framework dates be changed from September 1–14 to September 1–22. The Pacific Flyway Council also recommended the experimental sandhill crane season in Arizona be given operational status but the season length framework be changed from 4 days to 6 days.

Response: The Service concurs with the recommendations of both Councils for operational status of the two experimental seasons and the minor framework change in each.

21. *Woodcock.* Twenty-one State conservation agencies and 7 individuals submitted written comments on the proposed changes (reductions) in daily bag, season length, and season framework for woodcock in Atlantic Flyway States. Comments addressed the changes as proposed in the March 14, 1985, **Federal Register** (50 FR 10287) and as discussed in greater detail in the Environmental Assessment "Proposed Hunting Regulations on Eastern Population of Woodcock, 1985" announced in the February 5, 1985, **Federal Register** (50 FR 4994).

The States of Rhode Island, New Hampshire, North Carolina, Florida, West Virginia, Massachusetts, Oklahoma, Connecticut, Illinois, Maine, New York, Vermont, South Carolina, Indiana, Virginia, and Pennsylvania expressly or implicitly endorsed the proposed changes.

Tennessee agreed in principle to the need for regulatory changes in the Atlantic Flyway, but requested that there be no changes in the Mississippi Flyway.

Texas did not endorse the proposed changes on the grounds that they were not restrictive enough to effectively reduce harvests of woodcock. The State recommended reducing the daily bag limit to 1 or 2, or closing the season entirely. Additionally, West Virginia and Connecticut, who generally endorsed the proposed changes, suggested that further restrictions may be desirable.

Louisiana, New Jersey, and Maryland did not endorse the proposed changes in hunting regulations principally on the grounds that such changes may be ineffective and inappropriate because unfavorable habitat change, not hunting, is the underlying cause of the decline of woodcock in the Atlantic Flyway.

Vermont, while generally endorsing the proposed changes, requested exception from the October 1 framework opening date so that they may open their woodcock season on the last Saturday of September concurrent with the State's hunting seasons on resident game species. New Jersey requested exemption from the 10-day penalty normally taken by them for selecting zoning as a woodcock harvest strategy.

Several States commented on the adequacy of woodcock survey data and urged the Service to improve or develop methods for monitoring population status, hunter success, and, in particular, for estimating harvest at the national level.

Six individuals commented on the Environmental Assessment and the proposed changes. Detailed technical comments and observations regarding a variety of woodcock ecology and management issues were offered by 3 of the individuals that will be responded to outside of this document. Based on personal data and observations, 2 individuals urged the Service restrict woodcock hunting regulations while 1 individual questioned the reported decline in woodcock numbers and the necessity of harvest restrictions.

Response: The proposed changes represent a significant reduction in opportunities to harvest woodcock and likely will significantly reduce harvests of woodcock. Effecting further harvest reductions would require severe restrictions that do not appear to be warranted at this time. More restrictive regulations would disproportionately affect States and categories of hunters as discussed in detail in the Environmental Assessment, page 10 under "Impacts of Alternatives Other Than the Proposed Action." More restrictive regulations would likely be opposed by many woodcock hunters and State conservation agencies.

The Service recognizes that long-term loss of breeding habitat has been the fundamental cause of the decline of woodcock in the Atlantic Flyway and that relationships among hunting regulations, harvests, and the decline are not understood well. Nonetheless, various sources of information on hunter success indicate that this population is no longer capable of sustaining former levels of harvest. The Service believes that the proposed regulatory changes are necessary to bring harvest opportunities to a level commensurate with the current population status. The changes cannot assure a positive response in the woodcock population but will provide a margin of security in the uncertainty of whether and how harvests come into play in the decline of Atlantic Flyway woodcock.

The Service does not favor Vermont's request for a framework opening date of the last Saturday in September and believes that the option for New Jersey to zone for woodcock hunting should continue to include a 10-day penalty applied to the framework season length.

The Service recognizes that while the existing woodcock surveys generally have provided satisfactory results, some refinements are possible. Work on improving procedures for analyzing singing-ground survey data is near completion, and the Service proposes to begin similar work to improve use of wing-collection survey data. Improved procedures for monitoring hunter success, an important factor to be considered in evaluating effects of the proposed regulatory changes, will be developed. The Service also is testing the feasibility of estimating harvests of woodcock and other migratory game birds by adjusting certain data from existing State and Federal harvest surveys. At this time the Service prefers taking this approach to the problem rather than by instituting a mandatory permit or stamp to be required by hunters.

25. Migratory bird hunting seasons in Alaska. By letter dated April 11, 1985, the Pacific Flyway Council recommended no change in season frameworks for Alaska except that the sandhill crane bag limits framework be increased to 3 sandhill cranes per day and 6 in possession.

Response: The Service concurs with the recommendation.

29. Migratory Bird Hunting on Indian Reservations and Ceded Lands

In the March 23, 1984 **Federal Register** (49 FR 11125–11126), the Service announced the intention to permit more flexibility in migratory bird hunting regulations for Indians on Federal Indian reservations. The Service proposed guidelines that would permit tribes with recognized reserved hunting rights to select season dates that differed from those in the surrounding State(s) with respect to the times when hunting seasons may occur for migratory game birds for which hunting is permitted under Federal regulations. In all other respects (e.g., season length, bag limits, and basic regulations), the 1984 proposed guidelines would have required the adoption of regulations that are consistent with those established by the Fish and Wildlife Service in the general frameworks for migratory bird hunting. Under the March 23 proposal, the special regulations would apply only to tribal members on Federal Indian reservations, and non-Indians or non-tribal members would continue to be subject to the regulations established for application elsewhere in the State. In presenting the guidelines, the Service emphasized the need for a comprehensive and coordinated approach to management of migratory birds and asked that any tribal proposal be accompanied by a detailed evaluation plan.

The Service received 15 letters concerning the proposed guidelines from Indian tribal officials or their attorneys. Ten letters related to Chippewa bands on four reservations in Minnesota and the Wisconsin Chippewa tribes. The remainder came from the Colorado River Indian Tribes, Parker, Arizona; San Carols Indian Tribe, San Carlos, Arizona; White Mountain Apache Tribe, Whiteriver, Arizona; Navajo Nation, Window Rock, Arizona; and the Penobscot Nation, Old Town, Maine. The Service also received letters from the Pacific Flyway Council and from conservation agency officials in 17 States.

State letters expressed concern regarding the cumulative adverse effects that special regulations might have on waterfowl populations if a large number of tribes participated, and most States urged that proposals be reviewed by flyway councils before any special seasons are approved. Indian tribes supported the Service's efforts to accommodate their reserved hunting rights. However, they requested greater flexibility than the Service proposed, as described below.

Four tribes (Colorado River, Navajo, San Carlos Apache, and White Mountain Apache) contended that they have gained recognized authority to manage wildlife resources on their reservations as a result of recent Federal court decisions, and that their management options are not limited by hunting regulations established by State(s) in which the reservations are located. The Penobscot Nation pointed out that settlement of its Native claims granted the tribe full wildlife management authority on its Indian Territory, as well as on its smaller reservation. All of these tribes wanted the option of allowing both tribal and non-tribal members to hunt migratory birds on their reservations (or Indian Territory) on dates that are within annual Federal frameworks but that may differ from those established in States in which the reservations are located. Two tribes made specific proposals; the Navajo Nation requested uniform hunting regulations for both tribal and non-tribal members throughout its reservation (in parts of Arizona, New Mexico, and Utah). The White Mountain Apache Tribe requested a September opening of the bandtailed pigeon season for both tribal and non-tribal hunters on it reservation. The season dates requested by both tribes are within Federal frameworks but differ from those in the surrounding State(s).

Chippewa tribes in Minnesota and Wisconsin asked for more accommodation for tribal members only. The Great Lakes Indian Fish and Wildlife Commission, Odanah, Wisconsin, representing six Wisconsin Chippewa tribes, pointed out that the tribes have gained a judicially recognized right to hunt on ceded lands and wished to establish a migratory bird hunting season for tribal members on these lands in Wisconsin. The Commission indicated that the tribes want an earlier and longer season for ducks and other species that usually are not hunted in Wisconsin until October. The Commission also requested more flexibility in daily bag and possession limits for Canada geese, but stated that the tribes would observe other Federal regulations. Finally, four bands of the Minnesota Chippewa Tribe (Grand Portage, Leech Lake, Mille Lacs, and White Earth) stressed that their members are not bound by migratory bird hunting regulations established for States and waterfowl flyways.

In summary, the tribal requests can be categorized into three types: (1) On-reservation hunting (including Indian Territory) by both tribal and non-tribal members, with hunting by non-tribal members to take place within Federal frameworks but on dates different from those selected by surrounding State(s); (2) on-reservation hunting by tribal members only, outside of usual Federal frameworks; and (3) off-reservation hunting by tribal members on ceded lands, outside of usual framework dates and season length, with some added flexibility in daily bag and possession limits.

After reviewing the communications received in response to the March 1984 criteria, the Service proposes now to establish the following revised guidelines that would apply to tribes with recognized reserved hunting rights:

A. *On-reservation hunting, tribal and non-tribal members.* On Federal reservations and Indian Territory where tribes have full wildlife management authority over hunting by tribal and non-tribal members, or where the surrounding State(s) have no objections, the Service may establish hunting seasons for both tribal and non-tribal members that may differ from those in the State(s) in which the reservations are located. Opening and closing dates and season length for non-tribal members on these reservations would still have to be within the annual frameworks for migratory bird hunting seasons established by the Fish and Wildlife Service, and all other Federal regulations also would apply to non-tribal hunters (bag and possession limits and basic regulations). Season length and opening and closing dates for hunting by tribal members on their reservations could be established in accordance with proposed guideline B, below. On reservations where tribes do not have full management authority over hunting by non-tribal members or have not received State approval, non-tribal members could hunt on the reservation only when the season also is open in the surrounding State(s), and non-tribal hunters would be bound by all other migratory bird hunting regulations established in the State(s). This guideline will accommodate requests made by the Navajo Nation and White Mountain Apache Tribe. These two tribes indicated that the proposed hunting regulations on their reservations would apply to both tribal and non-tribal members. However, other tribes with recognized reserved hunting rights and management authority could request regulations that differed for tribal and non-tribal members.

B. *On-reservation hunting, tribal members only.* The Service may establish earlier opening or later closing dates and longer migratory bird hunting seasons for tribal members to hunt within the boundaries of Federal Indian reservations. Such earlier openings

could be outside of usual Federal frameworks but would still have to be consistent with the closed season requirements of the 1916 Migratory Bird Treaty with Canada. The Service would negotiate with tribes that request bag limits different than those provided in Federal frameworks. These special regulations would be available only for tribes that have recognized reserved hunting rights. Based on comments received from tribes, the Service anticipates that most seasons permitted under this guideline will begin in mid-September and end when the migratory bird season closes in the surrounding State(s). This guideline should accommodate opening date and season length requests from the various bands of the Minnesota Chippewa Tribe.

C. *Off-reservation hunting on ceded lands, tribal members only.* In consultation with tribes and the affected State(s), the Service may establish earlier opening or later closing dates and longer migratory bird hunting seasons for tribal members with a judicially recognized right to hunt on ceded lands. As is the case in paragraph B above, such openings could be outside of the usual Federal frameworks but would have to be otherwise consistent with the closed season provisons of the 1916 Migratory Bird Treaty with Canada. The Service would negotiate with tribes that request bag limits different than those provided in Federal frameworks. The special regulations would apply only to ceded lands now in public ownership. Non-tribal members would be permited to hunt on ceded lands only at times when the State migratory bird season is open on these lands. The Service anticipates that such seasons for tribal members generally would begin in mid-September and end with closure of the regular State migratory bird hunting season. This guideline should provide the flexibility in opening date and season length requested by the Great Lakes Indian Fish and Wildlife Commission (for the Wisconsin Chippewa tribes).

Tribes that wish to establish special migratory bird hunting seasons under any of these guidelines should submit a proposal to the Office of Migratory Bird Management (MBMO) with a copy to the appropriate Service regional office shown at the end of this document. The proposal should include (1) the requested hunting season dates and other details regarding regulations to be observed; (2) harvest anticipated under the requested regulations; (3) methods that will be employed to measure or monitor harvest; (4) steps that will be taken to limit level of harvest, where it could be shown that failure to limit such harvest would impact seriously on the migratory bird resource; and (5) tribal capabilities to establish and enforce migratory bird hunting regulations. The Service will review proposals on a case-by-case basis and may request modifications based on the conservation needs of the affected species. In most instances, hunting regulations approved by the Service will be established on an experimental basis until harvest estimates have evaluated and confirmed.

Before developing these proposed revised guidelines, the Service prepared a draft environmental assessment that addresses Indian hunting rights, reviews available information on the current status of migratory bird hunting on Federal Indian reservations, and evaluates the impact that adoption of the proposed new guidelines likely will have on migratory birds. Copies of the assessment may be obtained from MBMO. Written comments and suggestions concerning the assessment should be sent to MBMO by July 8, 1985. Comments and tribal requests concerning the proposed guidelines for migratory bird hunting on Indian reservations and ceded lands must be received no later than July 1, 1985.

Generally, the Service believes that the guidelines, when made final, will provide appropriate flexibility for Indian tribes to exercise their reserved hunting rights, and that it is unlikely that adoption of the new criteria would adversely impact the population status of migratory birds. The remaining area of concern relates to special hunting seasons that could be established on reservations where tribes have management authority over non-tribal hunters and wish to develop hunting programs for non-tribal members. A large influx of non-tribal hunters onto a given reservation at a time when the season is closed in the surrounding State(s) could result in excessive adverse harvests for a particular species. The requests received thus far from tribes with this authority are unlikely to result in such adverse impacts, however, and the Service intends to establish experimental season dates on the Navajo, White Mountain Apache, and possibly on other such reservations, beginning with the 1985–86 hunting season. Nevertheless, given the potential for adverse impacts to occur, all requests for special seasons which involve non-tribal hunters will be strictly scrutinized and dealt with on a case-by-case basis.

The Service also plans to continue discussions with the Chippewa Tribe in Minnesota and with the Great Lakes Indian Fish and Wildlife Commission and Wisconsin Department of Natural Resources, with the aim of developing mutually acceptable daily bag and possession limits and other hunting regulations that can be implemented during the 1985–86 hunting season, or as soon thereafter as possible. Regulations established under these guidelines may be implemented through a Memorandum of Understanding with a given band or tribe.

The question of special migratory bird hunting regulations on Indian reservations and ceded lands is complex, and unforeseen circumstances may arise that are not adequately addressed in the guidelines proposed here. However, these proposed guidelines may serve to clarify situations where special regulations are appropriate, as well as where they are not. Migratory birds are an international resource and their conservation is of paramount concern. It is essential that the Service, tribes, and flyway councils cooperate closely on this important issue. The Service intends to pursue ways in which this can best be accomplished within the present system of developing and implementing migratory bird hunting regulations.

FISH AND WILDLIFE SERVICE REGIONAL OFFICES

[Address Regional Director, U.S. Fish and Wildlife service]

States	Address	Telephone
California, Hawaii, Idaho, Nevada, Oregon, Washington.	Lloyd 500 Bldg., Suite 1692, 500 NE Multnomah Street, Portland, OR 97232.	503/231-6118
Arizona, New Mexico, Oklahoma, Texas	P.O. Box 1306, 500 Gold Avenue SW-Rm. 1306, Albuquerque, NM 87103.	505/766-2321
Iowa, Illinois, Indiana, Michigan, Minnesota, Missouri, Ohio, Wisconsin.	Federal Building, Fort Snelling, Twin Cities, MN 55111.	612/725-3563
Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee.	Richsrd B. Russell Fed. Bldg., Room 1200, 75 Spring Street SW, Atlanta, GA 30303.	404/221-3588
Connecticut, Delaware, Massachusetts, Maryland, Maine, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Virginia, Vermont, West Virginia.	One Gateway Center, Suite 700, Newton, Corner, MA 02158.	617/965-5100
Colorado, Kansas, Montana, North Dakota, Nebraska, South Dakota, Utah, Wyoming.	P.O. Box 25486, Denver Federal Center, Denver, CO 80225.	303/236-7920
Alaska	1011 E. Tudor Road, Anchorage, AK 99503	907/786-3542

Public Comment Invited

Based on the results of migratory game bird studies now in progress and with due consideration for any data or views submitted by interested parties, the possible amendments resulting from this supplemental rulemaking will specify open seasons, shooting hours, and bag and possession limits for designated migratory game birds in the United States, including Alaska, Hawaii, Puerto Rico, and the Virgin Islands.

The Director intends that finally adopted rules be as responsive as possible to all concerned interests. He therefore desires to obtain the comments and suggestions of the public, other concerned governmental agencies, and private interests on these proposals and will take into consideration the comments received. Such comments, and any additional information received, may lead the Director to adopt final regulations that differ from these proposals.

Special circumstances are involved in the establishment of these regulations which limit the amount of time which the Service can allow for public comment. Specifically, two considerations compress the time in which the rulemaking process must operate: the need, on the one hand, to establish final rules at a point enough in the summer to allow affected State agencies to appropriately adjust their licensing the regulatory mechanisms, and, on the other hand, the unavailability before mid-June of specific, reliable data on this year's status of some migratory shore and upland game bird populations. Therefore, the Service believes that to allow comment periods past the dates specified earlier is contrary to the public interest.

Comment Procedure

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may participate in the rulemaking process by submitting written comments to the Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Man Interior Building, Room 3252, Washington, D.C. 20240. Comments received will be available for public inspection during normal business hours at the Service's office in Room 536, Matomic Building, 1717 H Street, N.W., Washington, D.C.

All relevant comments on proposals will be considered provided those for Alaska, Hawaii, Puerto Rico, and the Virgin Islands are received no later than June 20, 1985; those on early season proposals (except Alaska, Hawaii, Puerto Rico, and the Virgin Islands) are received no later than July 15, 1985; and those on late season proposals are received by August 19, 1985. Comments and tribal requests concerning the proposed guidelines for migratory bird hunting on Indian reservations and ceded lands will be considered provided they are received no later than July 1, 1985. The Service will consider all comments, but substantive response to individual comments may not be provided.

Flyway Council Meetings

Department of the Interior respresentatives will be present at the following meetings of flyway councils:

Atlantic Flyway—Cherry Hill, NJ (Hyatt Cherry Hill Hotel) July 29–30

Mississippi Flyway–Indianapolis, IN (Speedway Motel) July 28–29

Central Flyway–Bismarck, ND (Kirkwood Motor Inn) July 28–30

Pacific Flyway–Reno, NV (Sundowner Hotel) July 28

Although agendas are not yet available, these meetings usually commence at 8:30 to 9 a.m. on the days indicated, however, the Central Flyway Council meeting will commence at 10 a.m., July 28

NEPA Consideration

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75–54)" was filed with Council on Environmental Quality on June 6, 1975, and notice of availability was published in **Federal Register** on June 13, 1975 (40 FR 25241). In addition, several environmental assessments have been prepared on specific matters which serve to supplement the material in the Final Environmental Statement. Copies of these documents are available from the Service at the address indicated above.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act," and "by taking such action necessary to insure that any action authorized, funded, or carried out * * * is not likely to jeopardize the continued existence of such endangered or threatened species or result in the destruction or modification of habitat of such species * * * which is determined to be critical."

Section 7 consultations are presently underway regarding both the early and late season regulatory proposals. It is possible that the findings from the consultation, which will be included in a biological opinion, may cause modification of some of the regulatory measures proposed in this document. Any modifications that may be desirable will be reflected in the final frameworks for Alaska, Puerto Rico, and the Virgin Islands, scheduled for publication in the **Federal Register** on or about July 11, 1985; those for other early seasons on or about July 26, 1985; and for later seasons on or about September 2, 1985.

Hunting regulations are designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species and their habitats.

The Service's biological opinions resulting from its consultation under section 7 are considered public documents and are available for public inspection in the Office of Endangered Species, and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Regulatory Flexibility Act and Executive Order 12291

In the **Federal Register** dated March 14, 1985, (50 FR 10276), the Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act and the Executive Order. These included preparing a Determination of Effects and an updated Final Regulatory Impact Analysis, and publication of a summary of the letter. This information is included in the present document by reference. As noted in the above **Federal Register** publication, the Service plans to issue its Memorandum of Law for the migratory bird hunting regulations at the same time the first of the annual hunting rules is finalized. This rule does not contain any information collection requiring approval by OMB under 44 U.S.C. 3504.

Authorship

The primary author of this proposed rulemaking is Morton M. Smith, Office of Migratory Bird Management, working under the direction of Rollin D. Sparrowe, Chief.

List of Subjects in 50 CFR Part 20

Hunting, Wildlife, Exports, Imports, Transportation.

Dated May 30, 1985.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85-13451 Filed 6-4-85; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 32

Refuge-Specific Hunting Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service (Service) proposes to amend certain regulations in 50 CFR Part 32 that pertain to migratory game bird, upland game, and big game hunting on individual national wildlife refuges. Refuge hunting programs are reviewed annually to determine whether the regulations governing individual refuge hunts should be modified. Changing environmental conditions, State and Federal regulations, and other factors affecting wildlife populations and habitats may warrant such amendments. The modifications would ensure the continued compatibility of hunting with the purposes for which the individual refuges involved were established and, to the extent practical, make refuge hunting programs consistent with State regulations.

DATE: Comments must be received on or before July 5, 1985.

ADDRESSES: Comments may be addressed to the Associate Director—Wildlife Resources, U.S. Fish and Wildlife Service, 18th and C Streets, NW, Room 3252, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: James F. Gillett, Division of Refuge Management, U.S. Fish and Wildlife Service, 18th and C Streets, NW, Room 2343, Washington, D.C. 20240; Telephone (202) 343-4311.

SUPPLEMENTARY INFORMATION: 50 CFR Part 32 contains the provisions that govern hunting on national wildlife refuges. Hunting is regulated on refuges for three basic reasons: (1) To properly manage the wildlife resource, (2) to protect other refuge values, and (3) to ensure refuge user safety. On many refuges, the Service policy of adopting State hunting regulations is an adequate way of meeting these objectives. On the other refuges, it is necessary for the Service to issue hunting regulations that supplement State regulations to ensure that the Service meets its management responsibilities, as outlined under the section entitled "Conformance with Statutory and Regulatory Authorities." Refuge-specific hunting regulations are issued only at the time of, or after the determination and publication of, the opening of a wildlife refuge to migratory game bird, upland game, or big game hunting. These regulations may list the wildlife species that may be hunted, seasons, bag limits, methods of hunting, descriptions of open areas, and other provisions. On September 19, 1984, at 49 FR 36736, the Service codified refuge-specific regulations for migratory game bird, upland game, and big game hunting. Subsequent rulemakings at 49 FR 38642, 49 FR 37093, 49 FR 43549, and 49 FR 50049 corrected, amended, or added to these regulations.

The Service reviews refuge hunting programs annually to determine if modifications in the regulations governing individual refuge hunts are necessary. Changing environmental conditions, State and Federal regulations, and other factors affecting wildlife populations and habitats may warrant that refuge-specific hunting regulations be modified, relaxed, or made more stringent. This ensures the continued compatibility of hunting with the purposes for which individual refuges were established and, to the extent practical, makes refuge hunting programs consistent with State regulations. This proposed rule would amend and supplement certain refuge-specific regulations in 50 CFR Part 32, §§ 32.12, 32.22, and 32.32, which pertain to migratory game bird, upland game, and big game hunting, respectively.

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. It is, therefore, the purpose of this proposed rulemaking to seek public input regarding the proposed amendments to refuge-specific regulations for migratory game bird, upland game, and big game hunting. Accordingly, interested persons may submit written comments, suggestions, or objections concerning this proposal to the Associate Director-Wildlife Resources (address above) by the end of the comment period. All substantive comments will be considered by the Department prior to issuance of a final rule.

Conformance With Statutory and Regulatory Authorities

The National Wildlife Refuge System Administration Act of 1966, as amended (16 U.S.C. 668dd), and the Refuge Recreation Act of 1962 (16 U.S.C. 460k) govern the administration and public use of national wildlife refuges. Specifically, section 4(d)(1)(A) of the Refuge Administration Act authorizes the Secretary of the Interior to permit the use of any area within the Refuge System for any purpose, including but not limited to hunting, fishing, public recreation and accommodations, and access, when he determines that such uses are compatible with major purposes for which the areas were established.

The Refuge Recreation Act authorizes the Secretary to administer areas within the Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the areas were established. Refuge Recreation Act also authorizes the Secretary to issue regulations to carry out the purposes of the Act.

Hunting plans are developed for each hunting program on a refuge prior to the opening of the refuge to hunting. In some cases, refuge-specific hunting regulations are included as a part of the hunting plan to ensure the compatibility of the hunting programs with the purposes for which the affected refuges were established. Initial compliance with the Refuge Administration and Refuge Recreation Acts is ensured when the hunting plans are developed, and the determinations required by these Acts are made prior to the addition of refuges to the lists of areas open to hunting in 50 CFR. Continued compliance is ensured by annual review of hunting programs and regulations.

Economic Effect

Executive Order 12291, "Federal Regulation," of February 17, 1981, requires the preparation of regulatory impact analyses for major rules. A major rule is one likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, government agencies or geographic regions; or significant adverse effects on the ability of United States-based enterprises to compete with foreign-based enterprises. The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) further requires the preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations or governmental jurisdictions.

The proposed amendments to the codified refuge-specific hunting regulations would make relatively minor adjustments to existing hunting programs. The regulations are not expected to have any gross economic effect and will not cause an increase in

costs or prices for consumers, individual industries, Federal, State, or local governments, agencies, or geographic regions. The benefits accruing to the public are expected to exceed by a large margin the costs of administering this rule. Accordingly, the Department of the Interior has determined that this rule is not a "major rule" within the meaning of Executive Order 12291 and would not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Paperwork Reduction Act

The Service has received approval from the Office of Management and Budget (OMB) for the information collection requirements of these regulations pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). These requirements are presently approved by OMB as cited below:

Type of information collection	OMB approval No.
Hunter Surveys	1018-0044
Special Use Permits	1018-0046
Hunter Reservation/Permit Application/Blind Assignment	1018-0047

These regulations impose no new reporting or recordkeeping requirements that must be cleared by OMB.

Environmental Considerations

The "Final Environmental Statement for the Operation of the National Wildlife Refuge System" [FES 76-56] was filed with the Council on Environmental Quality on November 12, 1976; a notice of availability was published in the **Federal Register** on November 19, 1976 (41 FR 51131). Compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(C)) and the Endangered Species Act of 1973 (16 U.S.C. 1531-1543) is ensured when hunting plans are developed, and the determinations required by these acts are made prior to the addition of refuges to the lists of areas open to hunting in 50 CFR. Refuge-specific hunting regulations are subject to a categorical exclusion from the NEPA process if they do not significantly alter the existing use of a particular national wildlife refuge. The changes proposed in this rulemaking would not substantially alter the existing uses of the refuges involved.

Information regarding hunting permits and the conditions that apply to individual refuge hunts and maps of the hunt areas are available at refuge headquarters. This information may also be obtained from the regional offices of the U.S. Fish and Wildlife Service at the addresses listed below:

Region 1—California, Hawaii, Idaho, Nevada, Oregon and Washington.
Assistant Regional Director—Wildlife Resources, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 NE Multnomah Street, Portland, Oregon 97232; Telephone (503) 231-6214.

Region 2—Arizona, New Mexico, Oklahoma and Texas.
Assistant Regional Director—Wildlife Resources, U.S. Fish and Wildlife Service, Box 1306, Albuquerque, New Mexico 87103; Telephone (505) 766-2324.

Region 3—Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio and Wisconsin.
Assistant Regional Director—Wildlife Resources, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111; Telephone (612) 725-3507.

Region 4—Alabama, Arkansas, Florida, Georgia, Kentucky, Louisana, Mississippi, North Carolina, South Carolina, Puerto Rico and Tennessee.
Assistant Regional Director—Wildlife Resources, U.S. Fish and Wildlife Service, Richard B. Russell Federal Building, 75 Spring Street, SW, Atlanta, Georgia 30303; Telephone (404) 221-3538.

Region 5—Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia and West Virginia.
Assistant Regional Director—Wildlife Resources, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158; Telephone (617) 965-5100.

Region 6—Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming.
Assistant Regional Director—Wildlife Resources, U.S. Fish and Wildlife Service, Box 25486, Denver Federal Center, Denver, Colorado 80225; Telephone (303) 234-4608.

Region 7—Alaska (Hunting on Alaska refuges is in accordance with State hunting regulations. There are no refuge-specific hunting regulations for these refuges).
Assistant Regional Director—Wildlife Resources, U.S. Fish and Wildlife Service, 1011 E. Tudor Rd., Anchorage, Alaska 99503; Telephone (907) 786-3542.

Stephen J. Lewis, Division of Refuge Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240, is the primary author of this proposed rulemaking document.

List of Subjects in 50 CFR Part 32

Hunting, National Wildlife Refuge System, Wildlife, Wildlife refuges.

PART 32—[AMENDED]

Accordingly, it is proposed to amend Part 32 of Chapter I of Title 50 of the Code of Federal Regulations as set forth below:

1. The authority citation for Part 32 continues to read as follows:

Authority: Sec. 2, 33 Stat. 614, as amended, sec. 5, 43 Stat. 651, sec. 5, 45 Stat. 449, sec. 10, 45 Stat. 1224, sec. 4, 48 Stat. 402, as amended, sec. 4, 48 Stat. 451, as amended, sec. 2, 48 Stat. 1270, sec. 4, 76 Stat. 654, as amended, sec. 4, 80 Stat. 927; 5 U.S.C. 301, 16 U.S.C. 685, 725, 690d, 715i, 664, 718d, 703, 704, 43 U.S.C. 351a, 16 U.S.C. 460k, 668dd; sec. 2, 80 Stat. 926; 16 U.S.C. 668bb, unless otherwise noted.

2. Section 32.12 would be amended by revising paragraph (c)(1)(v)(C); adding a new paragraph (c)(1)(v)(D); revising paragraph (d)(1)(v); adding new paragraphs (d)(1)(vi) and (d)(1)(vii); revising paragraph (d)(3)(v); adding new paragraphs (d)(3)(vi) and (d)(3)(vii); adding new paragraphs (e)(4)(iii) and (e)(4)(iv); revising paragraphs (g)(1) and (g)(2); revising paragraph (h)(2); adding a new paragraph (h)(3)(vii); revising paragraphs (i)(2) and (i)(3); revising paragraph (m); revising paragraphs (p)(1) through (p)(3) and paragraphs (p)(4)(vi) through (p)(4)(viii); adding a new paragraph (p)(4)(ix); revising paragraph (r)(2); revising paragraph (u)(1) through (u)(3) and paragraph (u)(5); revising paragraphs (w)(1) and (w)(3); redesignating paragraph (w)(9) as paragraph (w)(10); adding a new paragraph (w)(9); revising paragraph (z) in its entirety; revising paragraphs (bb)(1) and (bb)(2); revising paragraph (hh); revising paragraph (ii)(2)(i); revising paragraph (kk)(1)(ii); revising paragraph (ll)(1)(iii); adding a new paragraph (ll)(1)(vi); revising paragraph (nn); revising paragraph (oo); and adding a new paragraph (pp)(8)(iv), as follows:

§ 32.12 Refuge-specific regulations; migratory game birds.

* * * * *

(c) * * *

(1) * * *

(v) * * *

(C) During the goose season, the Hart Mine Marsh Area is closed to hunting until noon.

(D) Hunters are restricted to 10 shells per day, except in the Hart Mine Marsh Area.

(d) * * *

(1) * * *

(v) Blinds, boats, and decoys must be removed from the refuge or to a designated area following each day's hunt.

(vi) Firearms must be unloaded when transported or in refuge campgrounds.

(vii) Dogs are permitted.

* * * * *

(3) * * *

(v) Blinds, boats, and decoys must be removed from the refuge or to a designated area following each day's hunt.

(vi) Firearms must be unloaded when transported or in refuge campgrounds.

(vii) Dogs are permitted.

* * * * *

(e) * * *

(4) * * *

(iii) Hunters may not possess more than 25 shells while in the field.

(iv) Hunters must park in assigned lots.

* * * * *

(g) *Delaware*—(1) *Bombay Hook National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for waterfowl hunting except on the South Upland Hunting Area.

(ii) Hunting of waterfowl and coots is permitted on the South Waterfowl Area, the West Waterfowl Area, and the Young Waterfowlers Area.

(iii) Hunting of snow geese only is permitted on the Snow Goose Area.

(iv) Hunting is permitted only from designated sites, except on the South Upland Hunting Area.

(v) The maximum number of hunters permitted per blind is as follows: West Waterfowl and Snow Goose Areas—4; South Waterfowl Area—3; Young Waterfowlers Area—2.

(vi) The possession of a loaded shotgun while outside a blind or designated site is not permitted unless actively pursuing crippled birds.

(vii) Waterfowl hunters may not use or possess more than 15 shells per day on the West and Young Waterfowlers Hunt Areas.

(viii) Waterfowl hunters must use and possess shells containing only steel shot.

(ix) Hunting is not permitted from March 1 through August 31.

(2) *Prime Hook National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for Waterfowl hunting.

(ii) Only Waterfowl and coots may be taken on the Waterfowl and Young Waterfowlers Hunting Area.

(iii) Only mourning doves, common snipe, and woodcock may be taken on the North Hunting Area.

(iv) Access to the waterfowl hunting areas is by boat only.

(v) Except on the North Hunting Area, hunting is permitted from designated blinds only, with a maximum of three hunters per blind.

(vi) The possession of a loaded shotgun while outside of a blind is not permitted unless actively pursuing crippled birds.

(vii) Waterfowl hunters must use and possess shells containing only steel shot.

(viii) Hunters using the Young Waterfowlers Hunting Area may not use or possess more than 25 shells per day.

(ix) Hunting is not permitted from March 1 through August 31.

(h) * * *

(2) *Lower Suwannee National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting on the Dixie County portion of the refuge will be in accordance with State regulations for the Perpetual Wildlife Management Area.

(ii) Hunting of ducks, moorhens, woodcock, rails, coots, and snipe only is permitted on the Levy County portion of the refuge.

(iii) Permits are required for hunting on the Levy County portion of the refuge.

(iv) Hunting is not permitted on the Levy County portion of the refuge during the muzzleloading gun deer hunt.

(v) Only temporary blinds are permitted.

(vi) Decoys must be removed from the refuge following each day's hunt.

(vii) Hunters must use and be in possession only of shells containing steel shot.

(3) * * *

(vii) Decoys and other personal property must be removed from the hunting area following each day's hunt.

* * * * *

(i) * * *

(2) Hunting is permitted only on Tuesdays, Thursdays, and Saturdays until noon during the State waterfowl hunting season.

(3) Hunters on the Georgia portion of the refuge must use and be in possession only of shells containing steel shot.

* * * * *

(m) *Iowa, Illinois, and Missouri—Mark Twain National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas on the refuge subject to the following conditions:

(1) Hunting is only permitted on the Big Timber Division, the Bear Creek Unit of the Gardner Division, and Turkey and Otter Islands.

(2) Only temporary wood or brush blinds are permitted.

(3) Blinds cannot be locked or otherwise sealed against public entry.

(4) Blinds are open to the public on a first-come, first-served basis if not occupied 30 minutes after the start of the legal shooting hours.

* * * * *

(p) * * *

(1) *Bogue Chito National Wildlife Refuge.* Hunting of ducks, geese, coots, and woodstock is permitted on designated areas of the refuge subject to the following conditions:

(i) Duck hunting is not permitted during the special teal season.

(ii) Hunting is permitted until noon each day.

(iii) Only Temporary blinds are permitted.

(2) *D'Arbonne National Wildlife Refuge.* Hunting of ducks, coots, and woodcock is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted until noon each day.

(ii) Boats, decoys, and non-native blinds materials must be removed from the refuge following each day's hunt.

(3) *Delta National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting of ducks, geese, and coots is permitted only on Wednesdays, Thursday, Saturdays, and Sundays until noon during the State duck season.

(ii) Hunting is not permitted during that portion of the State goose season that extends beyond the State duck season.

(iii) Blinds and decoys must be removed from the refuge following each day's hunt.

(iv) Snipe, rails, and gallinules may not be taken during the State duck season.

(4) * * *

(vi) Blinds must be spaced at least 150 yeards apart.

(vii) Decoys and blinds must be removed from the refuge following each day's hunt.

(viii) Hunting is not permitted during the goose-only portion of the State waterfowl season.

(ix) Access into the marsh and ponds is by foot or boat only. Motorized boats may be used only in canals and bayous.

* * * * *

(r) * * *

(2) *Parker River National Wildlife Refuge.* Hunting of waterfowl and coots is permitted on designated area of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunters must use and possess shells containing only steel shot.

(iii) Hunters may not use or possess more than 25 shells per day.

(iv) Hunters using Area B must set out a minimum of six waterfowl decoys and hunt within 50 yards of these decoys.

* * * * *

(u) * * *

(1) *Hillside National Wildlife Refuge.* Hunting of mourning doves, ducks, coots, snipe, and woodcock is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Duck and coot hunting is permitted until noon each day.

(iii) Hunters must use and be in possession only of shells containing steel shot while duck and/or coot hunting.

(iv) Only portable and temporary blinds may be used.

(v) Dove hunting is permitted during the first two Saturdays of the State season, and the remainder of the first segment and the entire second segment of the season.

(2) *Mathews Brake National Wildlife Refuge.* Hunting of ducks, coots, snipe, and woodcock is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Duck and coot hunting is permitted until noon each day.

(iii) Hunters must use and be in possession only of shells containing steel shot while duck and/or coot hunting.

(iv) Only portable and temporary blinds may be used.

(3) *Morgan Brake National Wildlife Refuge.* Hunting of ducks, coots, snipe, and woodcock is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Duck and coot hunting is permitted until noon each day.

(iii) Hunters must use and be in possession only of shells containing steel shot while duck and/or coot hunting.

(iv) Only portable and temporary blinds may be used.

* * * * *

(5) *Panther Swamp National Wildlife Refuge.* Hunting of ducks, coots, snipe, and woodcock is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Duck and coot hunting is permitted until noon each day.

(iii) Hunters must use and be in possession only of shells containing steel shot while duck and/or coot hunting.

(iv) Only portable and temporary blinds may be used.

* * * * *

(w) * * *

(1) *Benton Lake National Wildlife Refuge.* Hunting of ducks, geese, tundra swans, and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) Only nonmotorized boats are permitted.

(ii) Waterfowl hunting is not permitted after November 30.

* * * * *

(3) *Bowdoin National Wildlife Refuge.* Hunting of waterfowl, coots, sandhill cranes, and mourning doves is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunters are required to check in and out of the refuge.

(ii) Air-thrust boats and boats with motors greater than 10 horsepower are not permitted.

* * * * *

(9) *Medicine Lake National Wildlife Refuge.* Hunting of ducks, geese, snipe, and doves is permitted on designated areas of the refuge.

(10) *Red Rocks Lake National Wildlife Refuge.* * * *

(z) *New Jersey—Edwin B. Forsythe National Wildlife Refuge.* Hunting of rails, gallinules, waterfowl, and coots is permitted on designated areas of the refuge subject to the following conditions:

(1) Hunters must use and possess shells containing only steel shot according to State regulation.

(2) All hunting blind materials, boats, and decoys must be removed at the end of each hunting day. Permanent and pit blinds are not permitted.

(3) Waterfowl hunters may not use or possess more than 25 shells per day in Hunting Areas A, B, and C in the Barnegat Division and in Hunting Unit 1 in the Brigantine Division.

(4) In Hunting Area B of the Barnegat Division, hunting is restricted to designated sites, with each site limited to one party of hunters. Access is by boat only. A minimum of six decoys per site is required.

(5) In Hunting Area C of the Barnegat Division, hunting is restricted to designated sites, with each site limited to one party of hunters. A permit is required on opening days, Saturdays, and holidays.

(6) Use of Hunting Unit 3 of the Brigantine Division is restricted to certified Young Waterfowl Program trainees from the close of the first portion of the split duck season through the second Saturday of the second portion of the split duck season.

* * * * *

(bb) * * *

(1) *Iroquois National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for waterfowl hunting.

(ii) Completion of the State waterfowl identification course is required.

(iii) Hunting is not permitted from March 1 through Septemnber 30.

(iv) Waterfowl hunters must use and possess shells containing only steel shot.

(v) Waterfowl hunters may not use or possess more than 15 shells per day.

(vi) Waterfowl hunters must provide and use a minimum of six decoys per hunter.

(vii) Waterfowl hunting is permitted from designated stands only, with a maximum of three hunters per stand.

(viii) Hunting must occur within 50 feet of a stand marker, unless actively pursuing crippled birds.

(2) *Montezuma National Wildlife refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Completion of the State waterfowl identification course is required.

(iii) Hunters must use and possess shells containing only steel shot.

(iv) Hunters may not use or possess more than 25 shells per day.

(v) Hunting parties are limited to a maximum of two hunters per group.

(vi) Motorless boats are required.

* * * * *

(hh) *Pennsylvania—Erie National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following conditions:

(1) Hunting is permitted on the refuge from September 1 through the end of February.

(2) Waterfowl hunters must use and possess shells containing only steel shot.

(3) Only motorless boats are permitted for waterfowl hunting. Boats and decoys must be removed from the refuge at the end of each day's hunt.

(ii) * * *

(2) * * *

(i) Dove and woodcock hunting is permitted only when the seasons for

these species coincide with the State quail season.

* * * * *

(kk) * * *

(l) * * *

(ii) Hunting is permitted only on Saturdays and Sundays during the regular duck season.

* * * * *

(ll) * * *

(1) * * *

(iii) Hunting is permitted until noon.

* * * * *

(vi) The refuge unit formerly known as the Pace Tract is open to hunting every day of the early teal season and regular waterfowl season.

* * * * *

(nn) *Vermont—Missisquoi National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following conditions:

(1) Permits are required to hunt in the Patrick Marsh-Charcoal Creek Controlled Hunting Area and the Junior Waterfowl Hunting Area.

(2) Hunters may not use or possess more than 25 shells per day on the Patrick Marsh-Charcoal Creek Controlled Hunting Area and the Junior Waterfowl Hunting Area.

(3) Boats are required on the permit hunt area.

(4) Hunters within the permit area must provide and use a minimum of six decoys and hunt within 50 feet of these decoys.

(5) Hunters must use and possess shells containing only steel shot.

(oo) *Virginia—Chincoteague National Wildlife Refuge.* Hunting of waterfowl is permitted on designated areas of the refuge subject to the following conditions:

(1) Permits are required on the non-guided public hunting area.

(2) Compartments 1 to 4 are reserved for guided hunting only, with refuge-designated commercial guides.

(3) Public hunting is permitted only within 50 feet of a designated blind site, unless actively pursuing crippled birds.

(4) Permanent and pit blinds are not permitted, except in Compartments 1 to 4.

(5) Blind sites are limited to one party of hunters, with a maximum of four hunters per party.

(pp) * * *

(8) * * *

(iv) Hunters may not use or possess more than 10 shells per day on the Riekkola Unit.

* * * * *

3. Section 32.22 would be amended by revising paragraphs (a)(4)(ii) through (a)(4)(iv); revising paragraphs (d)(2)(ii) and (d)(2)(iii); adding new paragraphs (d)(2)(v) and (d)(2)(vi); revising paragraphs (d)(4)(ii) and (d)(4)(iii); adding new paragraphs (d)(4)(v) and (d)(4)(vi); revising paragraphs (d)(6)(ii) and (d)(6)(iii); revising paragraphs (g)(1) and (g)(2); revising paragraphs (h)(2) and (h)(3)(ii); revising paragraphs (l)(1) and (l)(2); revising paragraphs (o)(3); revising paragraphs (q)(4) and (q)(6)(i); revising paragraphs (v)(1) through (v)(3) and paragraphs (v)(5) and (v)(6)(iv); revising paragraph (y)(1); revising paragraph (aa)(1)(i); revising paragraph (bb)(2); revising paragraph (cc)(2)(i); adding a new paragraph (cc)(2)(iv); revising paragraph (dd)(1); redesignating paragraphs (ff)(9) and (ff)(10) as paragraphs (ff)(10) and (ff)(11), respectively; adding a new paragraph (ff)(9); adding a new paragraph (hh)(2)(iii); revising paragraph (hh)(3)(iv); adding a new paragraph (hh)(4)(iii); revising paragraphs (jj)(1) and (jj)(2); revising paragraph (kk); and revising paragraph (mm), as follows:

§ 32.22 Refuge-specific regulations; upland game.

(a) * * *

(4) * * *

(ii) Hunting of squirrel is permitted during the first two weeks of the State season only.

(iii) Hunting of raccoon and opposum is permitted during the last 28 days of the State season only.

(iv) Hunting of rabbits is permitted during the last two weeks of the State season only.

* * * * *

(d) * * *

(2) * * *

(ii) Hunting of quail, squirrel, and rabbit is permitted only during the State seasons through January 31, except that it is not permitted during the refuge deer gun and muzzleloader hunts.

(iii) Hunting of raccoon and opossum is permitted only during the first five days and last five days of the State season.

* * * * *

(v) Firearms must be unloaded when transported or in refuge campgrounds.

(vi) Squirrel and rabbit hunting with dogs is permitted beginning January 1.

* * * * *

(4) * * *

(ii) Hunting of quail, squirrel, and rabbit is permitted only during the State seasons through January 31, except that it is not permitted during the refuge deer gun and muzzleloader hunts.

(iii) Hunting of raccoon and opossum is permitted only during the first five days and last five days of the State season.

* * * * *

(v) Firearms must be unloaded when transported or in refuge campgrounds.

(vi) Squirrel and rabbit hunting with dogs is permitted beginning January 1.

* * * * *

(6) * * *

(ii) Hunting of squirrel and rabbit is permitted from the first Saturday in October through October 31. Squirrel and rabbit may also be taken when their respective State seasons coincide with refuge deer archery and waterfowl hunts, but they must be taken with weapons legal for those hunts.

(iii) Hunting of raccoon and opossum is permitted for six days starting on the first Monday in December.

* * * * *

(g) *Delaware*—(1) *Bombay Hook National Wildlife Refuge.* Hunting of upland game is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted only on the South Upland Hunting Area.

(ii) Hunting is permitted from 1/2 hour before sunrise to 1/2 hour after sunset.

(iii) Hunting is not permitted from March 1 through August 31.

(2) *Prime Hook National Wildlife Refuge.* Hunting of rabbit, squirrel, quail, and pheasant is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted only on the North Hunting Area.

(ii) Hunting is permitted from 1/2 hour before sunrise to 1/2 hour after sunset.

(iii) Hunting is not permitted from March 1 through August 31.

(h) * * *

(2) *Lower Suwannee National Wildlife Refuge.* Hunting of upland game is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting on the Dixie County portion of the refuge will be in accordance with State regulations for the Perpetual Wildlife Management Area.

(ii) Hunting of squirrel, quail, rabbit, and armadillo only is permitted on the Levy County portion of the refuge from the day after the State general deer gun season ends through the last day of the State squirrel season.

(iii) Permits are required for hunting on the Levy County portion of the refuge.

(iv) Dogs are permitted for quail hunting only.

(3) * * *

(ii) Hunting is permitted beginning the third Friday in December through the

last Sunday in January except on Christmas and New Year's Day.

* * * * *

(l) * * *

(1) Hunting is permitted on the Big Timber and Gardner Divisions, and Turkey and Other Islands.

(2) Hunting is permitted on the Bear Creek Unit of the Gardner Division during Illinois seasons. On the remainder of the Gardner Division, only squirrel hunting is permitted from the opening of the State season through September 30.

* * * * *

(o) * * *

(3) *Quivira National Wildlife Refuge.* Hunting of pheasant, bobwhite quail, squirrel, and rabbit is permitted on designated areas of the refuge.

* * * * *

(q) * * *

(4) *Delta National Wildlife Refuge.* Hunting of rabbit is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted from the day after the waterfowl season closes through the remainder of the State season.

(ii) Only shotguns are permitted.

(iii) Dogs are permitted.

* * * * *

(6) * * *

(i) Hunting of raccoon and opossum is permitted only during January.

* * * * *

(v) * * *

(1) *Hillside National Wildlife Refuge.* Hunting of quail, rabbit, squirrel, beaver, raccoon, and opossum is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting of squirrel is permitted from the opening of the State season through December 15.

(iii) Hunting of rabbit is permitted during the entire State season, but the use of dogs for rabbit hunting is permitted only after the last day of the State deer season.

(2) *Mathews Brake National Wildlife Refuge.* Hunting of quail, rabbit, squirrel, beaver, raccoon, and opossum is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting of squirrel is permitted from the opening of the State season through December 15.

(iii) Hunting of rabbit is permitted during the entire State season, but the use of dogs for rabbit hunting is permitted only after the last day of the State deer season.

(3) *Morgan Brake National Wildlife Refuge.* Hunting of quail, rabbit, squirrel, beaver, raccoon, and opossum is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting of squirrel is permitted from the opening of the State season through December 15.

(iii) Hunting of rabbit is permitted during the entire State season, but the use of dogs for rabbit hunting is permitted only after the last day of the State deer season.

* * * * *

(5) *Panther Swamp National Wildlife Refuge.* Hunting of quail, rabbit, squirrel, beaver, raccoon, and opossum is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting of squirrel is permitted from the opening of the State season through December 15.

(iii) Hunting of rabbit is permitted from the opening of the State season through December 15 without dogs and during February with dogs.

(6) * * *

(iv) Hunting of raccoon and opossum is permitted on four consecutive nights beginning the fourth Wednesday in January.

* * * * *

(y) *Nebraska*—(1) *Crescent Lake National Wildlife Refuge.* Hunting of ring-necked pheasant and sharp-tailed grouse is permitted on designated areas of the refuge.

* * * * *

(aa) * * *

(1) * * *

(i) Hunting of jackrabbit and cottontail rabbit is permitted only during the waterfowl season.

* * * * *

(bb) * * *

(2) *Montezuma National Wildlife Refuge.* Hunting of gray squirrel, cottontail rabbit, raccoon, and fox is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for night hunting of raccoons.

(ii) Hunting is permitted from the third Sunday in December through the close of the respective State seasons.

(iii) Shotguns only are permitted, except that .22 caliber firearms may be used to take raccoon.

(cc) * * *

(2) * * *

(i) Hunting of squirrel is permitted from the first day of the State season through the first Friday in November, except during any gun deer hunts.

* * * * *

(iv) Hunting of raccoon and opossum is permitted from the first day of the State season through the first Friday in November, except during any gun deer hunts.

(dd) * * *

(1) *Arrowwood National Wildlife Refuge.* Hunting of pheasant, grouse, Hungarian partridge, rabbit, and fox is permitted on designated areas of the refuge subject to the following condition: Hunting is permitted from the day after the State deer gun season through the regular State late upland game season.

* * * * *

(ff) * * *

(9) *Sheldon National Wildlife Refuge.* Hunting of quail, grouse, and partridge is permitted on designated areas of the refuge.

(10) *Umatilla National Wildlife Refuge.* * * *

(11) *William L. Fenley National Wildlife Refuge.* * * *

* * * * *

(hh) * * *

(2) * * *

(iii) Hunting of quail and rabbit is permitted only from the beginning of the State season to December 31.

(3) * * *

(iv) Hunting of raccoon and opossum is permitted during the last ten days of the State season only.

(4) * * *

(iii) Hunters must wear a minimum of 500 square inches of flourescent orange colored material above the waistline.

* * * * *

(jj) *Tennessee*—(1) *Cross Creeks National Wildlife Refuge.* Hunting of squirrel is permitted on designated areas of the refuge subject to the following condition: Hunting is permitted during the first two weeks of the State season.

(2) *Hatchie National Wildlife Refuge.* Hunting of quail, squirrel, rabbit, raccoon, and opossum is permitted on designated areas of the refuge subject to the following condition: Small game hunting is not permitted during the refuge deer archery and gun hunting season.

* * * * *

(kk) *Texas—Hagerman National Wildlife Refuge.* Hunting of squirrel, rabbit, and quail is permitted on designated areas of the refuge subject to the following conditions:

(1) Hunters are required to check in and out of the hunt area.

(2) Only shotguns and bows and arrows are permitted.

(3) Upland game hunting is not permitted during the regular State waterfowl season.

* * * * *

(mm) *Vermont—Missisquoi National Wildlife Refuge.* Hunting of upland game is permitted on designated areas of the refuge subject to the following conditions:

(1) The use of rifles is not permitted on that portion of the refuge lying east of the Missisquoi River.

(2) Huntintg is not permitted from the January 1 through August 31.

* * * * *

4. Section 32.32 would be amended by revising paragraph (a)(1)(iii); revising paragraph (d)(2) and (d)(4); revising paragraphs (g)(1) and (g)(2); revising paragraph (h)(2)(iii); adding a new paragraph (h)(2)(v); revising paragraphs (h)(3) and (h)(5)(iii) through (h)(5)(vi); adding new paragraphs (h)(5)(viii) through (h)(5)(x); revising paragraphs (h)(6)(ii) and (h)(6)(iv); adding new paragraphs (h)(6)(v) through (h)(6)(viii); revising paragraphs (i)(4)(ii) through (i)(4)(iv); adding new paragraphs (i)(4)(vii) and (i)(4)(viii); revising paragraph (i)(5): introductory text revising paragraph (j)(4); adding a new paragraph (j)(5); revising paragraph (n); adding new paragraphs (r)(l)(iii) and (r)(l)(iv); revising paragraph (r)(2); redesignating paragraphs (r)(4) through (r)(6) as (r)(5) through (r)(7), respectively; adding a new paragraph (r)(4); revising paragraph (t)(2); revising paragraphs (u)(l) and (u)(2); revising paragraphs (x)(l)(i) and (x)(l)(iii); adding a new paragraph (x)(l)(v); revising paragraphs (x)(2), (x)(3)(i), (x)(3)(ii), (x)(5)(i), and (x)(5)(ii); adding a new paragraph (x)(5)(v); revising paragraphs (x)(6)(iv) and (x)(6)(viii); revising paragraph (y)(l)(i); revising paragraph (aa)(l); revising paragraph (cc); revising paragraphs (ee)(l) and (ee)(2); revising paragraphs (ff)(l), (ff)(2), and (ff)(3)(ii); adding new paragraphs (ff)(3)(v) and (ff)(3)(vi); adding a new paragraph (gg)(10)(iii); revising paragraph (gg)(13); redesignating paragraph (ii)(4) as paragraph (ii)(5); adding a new paragraph (ii)(4); revising paragraph (11)(l); revising paragraph (mm)(l)(i); revising paragraph (mm)(2); revising paragraph (pp) and revising paragraphs (qq)(l) through (qq)(3) as follows:

§ 32.32 Refuge-specific regulations; big game.

(a) * * *

(l) * * *

(iii) Hunting is permitted from the opening day of the State season through December 1.

* * * * *

(d) * * *

(2) *Felsenthal National Wildlife Refuge.* Hunting of white-tailed deer, turkey, and feral hogs is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Archery hunting is permitted only from the opening day of the State season through January 31, except by special permit during quota gun deer hunts.

(iii) Muzzleloader hunting is permitted during the last consecutive Friday and Saturday in October only.

(iv) Modern gun hunting is permitted during the State Thanksgiving Holiday hunt only.

(v) Firearms must be unloaded when transported or in refuge campgrounds.

(vi) Feral hogs may be taken during daylight hours of any refuge hunt with weapons legal for that hunt.

* * * * *

(4) *Overflow National Wildlife Refuge.* Hunting of white-tailed deer, turkey, and feral hogs is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Archery hunting is permitted only from the opening day of the State seasons through January 31, except by special permit during quota gun deer hunts.

(iii) Muzzleloader hunting is permitted during the last consecutive Friday and Saturday in October only.

(iv) Modern gun hunting is permitted during the State Thanksgiving Holiday hunt only.

(v) Firearms must be unloaded when transported or in refuge campgrounds.

(vi) Feral hogs may be taken during daylight hours of any refuge hunt with weapons legal for that hunt.

* * * * *

(g) *Delaware*—(1) *Bombay Hook National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) A permit is required on the Regular and Headquarters Deer Hunt Areas.

(ii) Hunting on the Headquarters Deer Hunt Area must be from designated stands only, unless actively tracking or retriving wounded deer.

(iii) Only portable tree stands may be used and must be removed from the refuge each day.

(2) *Prime Hook National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting Areas A and B and the North Hunting Area are open to shotgun and muzzleloader hunting.

(iii) Archery hunting is permitted on North Hunting Area only.

(iv) Archery hunting is not permitted during the October primitive weapons season.

(v) Only portable tree stands may be used and must be removed from the refuge each day.

(h) * * *

(2) * * *

(iii) Two four-day blackpowder hunts are permitted beginning on the first and third Thursdays following the close of the archery hunt.

* * * * *

(v) Hunters must wear a visible outer garment of daylight florescent orange material.

(3) *Lower Suwannee National Wildlife Refuge.* Hunting of big game is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting on the Dixie County portion of the refuge will be in accordance with State regulations for the Perpetual Wildlife Management Area.

(ii) Hunting of white-tailed deer and feral hogs only is permitted on the Levy County portion of the refuge beginning the third Saturday in November and extending through the second Sunday in December, except on Thanksgiving.

(iii) Permits are required for hunting on the Levy County portion of the refuge.

(iv) Hunters must wear a visible outer garment of daylight florescent orange material.

* * * * *

(5) * * *

(iii) Only bearded turkeys may be taken.

(iv) Antlerless deer may not be taken on the Panacea Unit of the refuge during the archery hunt.

(v) A bucks-only deer, turkey, and hog hunt using bows and arrows and/or muzzleloaders is permitted for three consecutive days beginning the third Friday in November.

(vi) Two three-day bucks-only deer, hog, and turkey hunts are permitted on consecutive weekends beginning on the fourth Friday in November.

* * * * *

(viii) A hogs-only hunt is permitted for three consecutive days beginning the second Friday in December.

(ix) Turkey hunting is permitted for ten consecutive days beginning on the fourth Friday in March.

(x) Hunters must wear a visible outer garment of daylight florescent orange material.

(6) * * *

(ii) Archery hunting is permitted for three consecutive days beginning on Thursday of the first full week in November.

* * * * *

(iv) A primitive weapons hunt is permitted for three consecutive days beginning on the second Thursday in December and for three consecutive days beginning on the last Thursday of the State modern gun season.

(v) Two deer of either sex may be taken during each hunt.

(vi) One turkey of either sex may be taken during the archery hunt and the December primitive weapon hunt.

(vii) During the archery and primitive weapon hunts, hunters must remain on their stands from one-half hour before sunrise to 9:00 a.m.

(viii) Hunters must wear a visible outer garment of daylight florescent orange material during the primitive weapons hunt.

(i) * * *

(4) * * *

(ii) Archery hunting is permitted for 16 consecutive days beginning on the last Saturday in September.

(iii) Primitive weapons hunting of deer is permitted for three consecutive days beginning on the Thursday following the opening of the State deer firearms season. Deer taken on this hunt must have three or more points on one side or must be antlerless.

(iv) A bucks-only deer hunt is permitted for three consecutive days beginning two weeks after the opening of the refuge primitive weapons hunt.

* * * * *

(vii) A general gun deer hunt is permitted on the two Saturdays following the bucks-only deer hunt and on the first Saturday in December.

(viii) Checking of bagged game is required.

(5) *Wassaw National Wildlife Refuge.* Hunting of white-tailed deer and feral hogs is permitted on designated areas of the refuge subject to the following conditions:

* * * * *

(j) * * *

(4) Hunters must wear a minimum of 500 square inches of fluorescent orange colored material above the waistline.

(5) Two deer may be taken. Deer may be of either sex.

* * * * *

(n) *Illinois, Iowa, and Missouri—Mark Twain National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(1) Firearms hunting is permitted on the Bear Creek Unit of the Gardner Division. Firearms hunting is permitted on the remainder of the Gardner Division during part of the November firearms season only. Hunting is permitted from 6:30 to 3:00 p.m. A refuge permit is required.

(2) Archery hunting is permitted on the Bear Creek Unit of the Gardner Division. Archery hunting is permitted on the remainder of the Gardner Division during part of the Illinois archery deer season only. A refuge permit is required.

(3) Hunting is permitted on the Big Timber Division and on Turkey and Otter Islands during the State season.

* * * * *

(r) * * *

(1) * * *

(iii) Bucks-only deer gun hunting is permitted on 12 consecutive days beginning the second Saturday of November.

(iv) Either-sex deer gun hunting is permitted on three consecutive days beginning on the Friday after Thanksgiving.

(2) *Catahoula National Wildlife Refuge.* Hunting of white-tailed deer and feral hogs is permitted on designated areas of the refuge subject to the following conditions:

(i) Archery hunting is permitted.

(ii) Muzzleloader hunting for deer (bucks only) and unmarked feral hogs is permitted from January 2 through January 20.

(iii) Checking of bagged game is required.

* * * * *

(4) *Delta National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Archery hunting is permitted from the opening of the State season through October 31.

(ii) Only portable stands are permitted and they must be removed from the refuge after each day's hunt.

(5) Lacassine National Wildlife Refuge. * * *

(6) Tensas River National Wildlife Refuge.

(7) Upper Ouachita National Wildlife Refuge. * * *

* * * * *

(t) * * *

(2) *Rachel Carson National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Only shotgun and archery hunting are permitted.

(u) *Maryland*—(1) *Blackwater National Wildlife Refuge.* Hunting is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Handguns and breech-loading rifles are not permitted.

(iii) In the headquarters hunt area, hunters must remain within 30 feet of their stand, unless actively tracking or retrieving wounded deer.

(2) *Eastern Neck National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Only one deer of either sex may be taken.

(iii) Only archery, shotgun, and muzzleloader hunting is permitted.

(iv) Loaded weapons are not permitted in parking areas or on blacktopped roads.

* * * * *

(x) * * *

(1) * * *

(i) Permits are required.

* * * * *

(iii) General gun deer hunting is permitted on the third Thursday of December.

* * * * *

(v) Muzzleloader deer hunting is permitted for eight consecutive days beginning the first Saturday of the State season.

(2) *Mathews Brake National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Only archery hunting is permitted.

* * * * *

(i) Only archery and primitive weapons hunting are permitted.

(ii) Permits are required.

* * * * *

(5) * * *

(i) Permits are required.

(ii) The youth deer hunt is permitted on the first day of the State either-sex deer season.

* * * * *

(v) General gun hunting for deer is permitted from the beginning of the State season through November 30 and from December 24 through December 31.

(6) * * *

(iv) Muzzleloader deer hunting is permitted during the first five days of the State season excluding Sunday and Monday.

* * * * *

(viii) Bag limits are one bearded turkey, and one deer for all deer gun hunts.

* * * * *

(y) * * *

(1) * * *

(i) Only archery and primitive weapons hunting are permitted.

* * * * *

(aa) * * *

(1) *Crescent Lake National Wildlife Refuge.* Hunting of white-tailed deer, mule deer, and pronghorn antelope is permitted on designated areas of the refuge subject to the following condition: Checking of bagged game is required.

* * * * *

(cc) *New Jersey—Great Swamp National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(1) Hunters must comply with State laws governing special deer permit hunts.

(2) All hunters must attend the refuge hunter orientation and show proof of completion of a refuge firearms proficiency test before hunting.

* * * * *

(ee) *New York*—(1) *Iroquois National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following condition: Only archery and shotgun hunting are permitted.

(2) *Montezuma National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Only archery hunting is permitted.

(ff) * * *

(1) *Great Dismal Swamp National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Only Shotguns, 20 gauge or larger, loaded with buckshot and/or rifled slugs, and bows and arrows, are permitted.

(iii) Dogs are not permitted.

(2) *Mackay Island National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Only archery and shotgun hunting are permitted.

(iii) Dogs are not permitted.

(iv) Shotgun hunters must hunt from designated stands.

(3) * * *

(ii) Muzzleloader hunting is permitted the first Tuesday of the State (Anson County) muzzleloader gun season.

* * * * *

(v) Youth gun hunting is permitted on the first Saturday of the State (Anson County) gun season. During the youth deer hunt, only persons 15 years and under may carry, handle, or discharge firearms.

(vi) Gun hunting is permitted on the second Monday, Tuesday, Friday, and Saturday of the State (Anson County) gun season.

* * * * *

(gg) * * *

(10) * * *

(iii) Archery hunting is permitted through the day before the opening of the State waterfowl season, and it is permitted following the deer gun season.

* * * * *

(13) *Upper Souris National Wildlife Refuge.* Hunting of White-tailed deer is permitted on designated areas of the refuge subject to the following condition: Permits are required.

* * * * *

(ii) * * *

(4) *Sheldon National Wildlife Refuge.* Hunting of deer and antelope is permitted on designated areas of the refuge.

(5) *William L. Fenley National Wildlife Refuge.* * * *

* * * * *

(ll) * * *

(1) *Lacreek National Wildlife Refuge.* Hunting of White-tailed deer and mule deer is permitted on designated areas of the refuge subject to the following condition: Permits are required.

* * * * *

(mm) * * *

(1) * * *

(i) Archery hunting is permitted during the first two weeks of the State archery season.

* * * * *

(2) *Hatchie National Wildlife Refuge.* Hunting of white-tailed deer and turkey is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for the firearms deer hunt and turkey hunt.

(ii) Checking of bagged deer taken during firearms hunt is required.

(iii) Gun hunting is permitted on two consecutive days beginning on the fourth Saturday in October. One deer may be taken. Deer may be of either sex.

(iv) Archery hunting is permitted for the first 16 days of the State season. Two deer may be taken. Deer may be of either sex.

* * * * *

(pp) *Vermont—Missisquoi National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following condition: Only shotguns may be used on that part of the refuge east of the Missisquoi River during the State regular season.

(qq) * * *

(1) *Chincoteague National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Shotgun hunters must use rifled slugs only.

(iii) Dogs are not permitted.

(2) *Great Dismal Swamp National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) One deer of either sex may be taken.

(iii) Only shotguns, 20 guage or larger, loaded with buckshot and/or rifled slugs, and bows and arrows, are permitted.

(iv) Dogs are not permitted.

(3) *Presquile National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) One deer of either sex may be taken.

(iii) Dogs are not permitted.

(iv) Only shotguns, 20 guage or larger, loaded with buckshot and/or rifled slugs, and bows and arrows, are permitted.

(v) Shotgun hunters must remain on their assigned stand unless tracking or retrieving a wounded deer.

(vi) Archers must remain on their assigned stand from ½ hour before sunrise to 10:00 a.m., after which time they may hunt anywhere within the hunt area.

* * * * *

Dated: May 14, 1985.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85-13402 Filed 6-3-85; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 50, No. 107
Tuesday, June 4, 1985

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Bureau of Land Management/Forest Service Interchange Program; Public Review Period and Public Hearings

AGENCY: Forest Service, USDA; Bureau of Land Management, USDI.

ACTION: Notice of public review period and public hearings.

SUMMARY: The Bureau of Land Management and the Forest Service have completed implementation plans and preliminary legislative concepts for the proposed Interchange of jurisdiction over about 35 million acres of land. The proposal also includes the transfer to the Forest Service of the responsibility for Federal minerals within areas of its jurisdiction. The plans and concepts will be available for a 30-day public review period. During the review period the agencies will conduct 28 public hearings and solicit written comments. The agencies will consider the testimony from the hearings and written comments in preparing a legislative proposal for submission to Congress this summer. Copies of all comments received, hearing transcripts, and an analysis of public input will be made available to Congress with the legislative proposal.

DATES: The Interchange implementation plan summaries and legislative concepts will be released for public review and comment on June 7, 1985, and the comment period will continue through July 8, 1985. Public hearings will be held June 19 through June 29, 1985, at locations listed below.

ADDRESSES: Summaries of the implementation guides and the legislative concepts are available from the national offices of both agencies at the following addresses or at Forest Service Regional Offices and BLM States Offices: USDA Forest Service, P.O. Box 2417, Washington, D.C. 20013; USDI Bureau of Land Management, 1800 C Street, N.W. Washington, D.C. 20240.

Send written comments to BLM/Forest Service Interchange, P.O. Box 21219, Washington, D.C. 20009–0719.

The dates, times and locations of the hearings follow:

State	City	Date	Time	Location
Arizona	Safford	6/19	7 p.m	Old Armory, Highway 70.
	Phoenix	6/20	1 and 7 p.m	Longview Middle School Auditorium, 1209 E. Indian School Road.
	Prescott	6/21	7 p.m	Hendrix Auditorium, Prescott Jr. High, Carlton & Montezuma Streets.
California	Sacramento	6/24	8 a.m	Holiday Inn, 5321 Date Avenue.
	Ukiah	6/24	2:30 p.m	Saturday Afternoon Club, Corner W. Church and S. Oak.
	Redding	6/25	8 a.m	Redding Civic Auditorium, Room 125, 700 Auditorium Drive.
	Alturas	6/25	2 & 7 p.m	Modoc High School, Social Hall, 900 N. Main Street.
Colorado	Grand Jct	6/26	7 p.m	Howard Johnson's I-70 at Horizon Drive.
	Denver	6/27	7 p.m	Clarion Hotel, Airport, 3203 Quebec.
Idaho	Pocatello	6/24	4 p.m	Idaho State Univ. Campus, College of Ed. Auditorium, 19th and Terry Streets.
	Boise	6/27	1 p.m	City Hall, Les Bois Room, 150 N. Capitol Blvd.
Montana	Helena	6/25	7 p.m	U.S. District Ct., Room 531, Federal Building, 301 South Park Avenue.
Nevada	Las Vegas	6/24	6 p.m	Clark County Library, 1401 E. Flamingo.
	Reno	6/25	7 p.m	Reno/Sparks Convention Center, South Hall, 4590 South Virginia.
	Elko	6/26	7 p.m	Elko Convention Center, 700 Festival Way.
New Mexico	Albuquerque	6/24	1 & 7 p.mp	University of New Mexico, Conference Center, 1634 University Blvd. NE.
	Roswell	6/25	1 & 7 p.m	Roswell Inn, 1815 N. Main
No. Dakota	Dickinson	6/26	7 p.m	Holiday Inn, Highway 22 and I-94
Oregon	Salem	6/26	1 & 7 p.m	Scottish Rite Temple, 4090 Commercial Avenue SE.
	Bend	6/27	1 & 7 p.m	Deschutes National Forest Office, 1645 East Highway 20.
Utah	Richfield	6/19	3 p.m	Sevier County Courthouse, 250 N. Main Street
	Salt L. City	6/20	2 & 7 p.m	Salt Palace, Room C-104, West Temple and First South Streets.
Washington	Spokane	6/28	1 p.m	Spokane County Agricultural Center, Room A, 222 Havana.
Wyoming	Casper	6/27	7 p.m	Downtowner Motor Inn, I-25 and Center.
	Sheridan	6/28	7 p.m	Sheridan High School, Lewis and Adair Street.
	Rock Springs	6/29	2 p.m	Quality Inn, 2518 Foothill Boulvard.
East	Atlanta	6/20	1 p.m	Federal Trade Commission, Hearing Room, 10th Floor, 1720 Peachtree Road NW.
National	Washington, DC	6/27	1 p.m	Interior Dept. Auditorium, 1800 C Street, NW.

FOR FURTHER INFORMATION CONTACT: John Leasure, Programs and Legislation, Forest Service, USDA, (202)–475–5154; or John Moeller, Management Research, Bureau of Land Management, USDI, (202)–343–6825.

SUPPLEMENTARY INFORMATION: Speakers at the hearings may comment on any aspect of the interchange proposal, but comments on the implementation guides and legislative concepts will be especially helpful. Time for oral testimony may be limited to 5 minutes to accommodate all those wishing to speak; full written comments may be submitted for the record. Attendance at one of the hearings is not necessary for anyone submitting written comments. Written comments must be received by July 8 to be considered and addressed in the implementation plans and legislative proposal.

Dated: May 30, 1985.

For the Forest Service.

R.M. Housley,

Deputy Chief.

Dated: May 30, 1985.

For the Bureau of Land Management.

Robert F. Burford,

Director.

[FR Doc. 85–13464 Filed 6–3–85; 8:45 am]

BILLING CODE 3410–11–M, 4310–84–M

DEPARTMENT OF AGRICULTURE

Forest Service

National Forest Lands in the Pacific Northwest Region, Entire States of Oregon and Washington, and Minor Portions of California and Idaho; Intent To Prepare Supplement to Programmatic Environmental Impact Statement

The Pacific Northwest Region will prepare a supplement to the existing Final Programmatic Environmental Impact Statement entitled "Methods of Managing Competing Vegetation," dated June 2, 1981.

The purpose of this supplement is to provide the decisionmaker with more refined information on the possible effects of herbicide use on human health.

Several US District Court judges have ruled that, in their opinion, enough scientific uncertainty about herbicides and human health exists to require a worst-case analysis (40 CFR 1502.22) be prepared. An injunction halting application of herbicides has been ordered by the Court until preparation and public review of a worst-case analysis as required by the National Environmental Policy Act Implementing Regulations.

There will be no formal public scoping meetings conducted. The Bureau of Land Management, US Department of Interior, and the Environmental Protection Agency are invited to participate in the analysis.

The worst-case analysis, as part of the programmatic Environmental Impact Statement, will be used for ascertaining risks to human health by on-the-ground decisionmakers in their site-specific project analysis. Comments are invited regarding the proposed supplement as a worst-case analysis of potential human health effects. Comments regarding issues to be addressed and scope of the analysis would be particularly useful.

A draft supplement is expected to be available for public review about September 1, 1985. A review period of at least 45 days will be provided for agency and public review and comment. Following consideration of public comments, a final supplement is expected to be issued about March 1, 1986.

Jeff M. Sirmon, Regional Forester, Pacific Northwest Region, is the Responsible Official. Questions and comments about the proposed action may be directed to Mike Schafer, Pesticide Specialist, USDA Forest Service, P.O. Box 3623, Portland, Oregon 97208; phone (503) 221-2727.

Dated: May 24, 1985.

John F. Butruille,

Acting Regional Forester.

[FR Doc. 85-13437 Filed 6-3-85; 8:45 am]

BILLING CODE 3410-11-M

Inyo National Forest; Mono Basin National Forest Scenic Area Advisory Board; Meeting

The Mono Basin National Forest Scenic Area Advisory Board will meet at 8:30 a.m. on June 26, 1985, at the Lee Vining Presbyterian Church, Lee Vining, California. The agenda of the meeting will include Private Land Guidelines, Visitor Center sites, and update by the District Ranger.

The meeting will be open to the public. Persons who wish to attend should notify Eugene E. Murphy, Forest Supervisor, Inyo National Forest, 873 No. Main Street, Bishop, California, 93514, Telephone: (619) 873-5841. Written statements may be filed with the Committee before or after the meeting.

The Committee has established the following rules for public participation: After the Board has completed discussion of each topic, the public will be allowed time for questions or comment.

Dated: May 28, 1985.

Eugene E. Murphy,

Forest Supervisor and Chairman.

[FR Doc. 85-13438 Filed 6-3-85; 8:45 am]

BILLING CODE 3410-11-M

San Juan National Forest Grazing Advisory Board; Meeting

The San Juan National Forest Grazing Advisory Board will meet on June 25, 1985 at the Mancos Ranger District Office, U.S. Highway 160, Mancos, Colorado. This meeting will start at 9:00 am. The board was established in accordance with provisions of the Federal Land Policy Act of 1976.

The Agenda for the meeting will include: (1) Recommendations for the utilization of range betterment funds; (2) discussion of the Grazing Fee Study; and (3) recommendations for the development of allotment management plans.

The meeting will be open to the public. Persons who wish to attend and participate should notify Dave Cook, San Juan National Forest, (303) 247-4874 prior to the meeting. The public may participate in discussions during the meeting or may file a written statement following the meeting.

Dated: May 22, 1985.

John R. Kirkpatrick,

Forest Supervisor.

[FR Doc. 85-13439 Filed 6-3-85; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Little Bigby Creek Watershed, Tennessee; Intent To Deauthorize Federal Funding

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of Intent to Deauthorize Federal Funding.

SUMMARY: Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83-566, and the Soil Conservation Service Guidelines (7 CFR 622), the Soil Conservation Service gives notice of intent to deauthorize Federal funding for the Little Bigby Creek Watershed Project, Maury County, Tennessee.

FOR FURTHER INFORMATION CONTACT: Donald C. Bivens, State Conservationist, Soil Conservation Service, 675 U.S. Courthouse, Nashville, Tennessee 37203, telephone (615) 251-5471.

SUPPLEMENTARY INFORMATION: A determination has been made by Donald C. Bivens that the proposed works of improvement for the Little Bigby Creek Watershed project will not be installed. The sponsoring local organizations have concurred in this determination and agree that Federal funding should be deauthorized for the project. Information regarding this determination may be obtained from Donald C. Bivens, State Conservationist, at the above address and telephone number.

No administrative action on implementation of the proposed deauthorization will be taken until 60 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: May 22, 1985.

Donald C. Bivens,

State Conservationist.

[FR Doc. 85-13440 Filed 6-3-85; 8:45 am]

BILLING CODE 3410-16-M

Piiholo Road Critical Area Treatment Measure, Hawaii

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significance impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Piiholo Road Critical Area Treatment Measure, Maui, Hawaii.

FOR FURTHER INFORMATION CONTACT: Francis C.H. Lum, State Conservationist, Soil Conservation Service, P.O. Box 50004, Honolulu, Hawaii 96850, telephone (808) 546-3165.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Francis C.H. Lum, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for stabilizing critically eroding areas along Piiholo Road. The planned works of improvement include road swales, grassed waterways, shoulder swales, and a culvert.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic information developed during the environmental assessment are on file and may be reviewed by contacting Francis C.H. Lum, State Conservationist, Soil Conservation Service, P.O. Box 50004, Honolulu, Hawaii 96850, (808) 546-3165.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590 a-f, q)

Dated: May 21, 1985.

Francis C.H. Lum,

State Conservationist.

[FR Doc. 85-13350 Filed 6-3-85; 8:45 am]

BILLING CODE 3410-16-M

Hardin Creek Watershed, Tennessee; Intent To Deauthorize Federal Funding

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of intent to deauthorize Federal funding.

SUMMARY: Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83-566, and the Soil Conservation Service Guidelines (7 CFR Part 622), the Soil Conservation Service gives notice of the intent to deauthorize Federal funding for the Hardin Creek Watershed Project, Wayne and Hardin Counties, Tennessee.

FOR FURTHER INFORMATION CONTACT: Donald C. Bivens, State Conservationist, Soil Conservation Service, 675 U.S. Courthouse, Nashville, Tennessee 37203, telephone (615) 251-5471.

SUPPLEMENTARY INFORMATION: A determination has been made by Donald C. Bivens that the proposed works of improvement for the Hardin Creek Watershed project will not be installed. The sponsoring local organizations have concurred in this determination and agree that Federal funding should be deauthorized for the project. Information regarding this determination may be obtained from Donald C. Bivens, State Conservationist, at the above address and telephone number.

No administrative action on implementation of the proposed deauthorization will be taken until 60 days after the date of this publication in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable.)

Dated: May 22, 1985.

Donald C. Bivens,

State Conservationist.

[FR Doc. 85-13288 Filed 6-3-85; 8:45 am]

BILLING CODE 3410-16-M

Mill Creek Watershed, Tennessee; Intent To Deauthorize Federal Funding

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of intent to deauthorize Federal funding.

SUMMARY: Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83-566, and the Soil Conservation Service Guidelines (7 CFR Part 622), the Soil Conservation Service gives notice of the intent to deauthorize Federal funding for the Mill Creek Watershed Project, Overton and Clay Counties, Tennessee.

FOR FURTHER INFORMATION CONTACT: Donald C. Bivens, State Conservationist, Soil Conservation Service, 675 U.S. Courthouse, Nashville, Tennessee 37203, telephone (615) 251-5471.

SUPPLEMENTARY INFORMATION: A determination has been made by Donald C. Bivens that the proposed works of improvement for the Mill Creek Watershed project will not be installed. The sponsoring local organizations have concurred in this determination and agree that Federal funding should be deauthorized for the project. Information regarding this determination may be obtained from Donald C. Bivens, State Conservationist, at the above address and telephone number.

No administrative action on implementation of the proposed deauthorization will be taken until 60 days after the date of this publication in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: May 22, 1985.

Donald C. Bivens,

State Conservationist.

[FR Doc. 85-13289 Filed 6-3-85; 8:45 am]

BILLING CODE 3410-16-M

North Fork Obion River Watershed, Tennessee; Intent To Deauthorize Federal Funding

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of intent to deauthorize Federal funding.

SUMMARY: Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83-566, and the Soil Conservation Service Guidelines (7 CFR Part 622), the Soil Conservation Service gives notice of the intent to deauthorize Federal funding for the North Fork Obion River Watershed Project, Henry County, Tennessee.

FOR FURTHER INFORMATION CONTACT: Donald C. Bivens, State Conservationist, Soil Conservation Service, 675 U.S. Courthouse, Nashville, Tennessee 37203, telephone (615) 251–5471.

SUPPLEMENTARY INFORMATION: A determination has been made by Donald C. Bivens that the proposed works of improvement for the North Fork Obion River Watershed project will not be installed. The sponsoring local organizations have concurred in this determination and agree that Federal funding should be deauthorized for the project. Information regarding this determination may be obtained from Donald C. Bivens, State Conservationist, at the above address and telephone number.

No administrative action on implementation of the proposed deauthorization will be taken until 60 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: May 22, 1985.

Donald C. Bivens,

State Conservationist.

[FR Doc. 85–13352 Filed 6–3–85; 8:45 am]

BILLING CODE 3410–16–M

Lewis-Hunsaker Creek Watershed, Tennessee; Intent To Deauthorize Federal Funding

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of intent to deauthorize Federal funding.

SUMMARY: Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83–556, and the Soil Conservation Service Guidelines (7 CFR Part 622), the Soil Conservation Service gives notice of the intent to deauthorize Federal funding for the Lewis-Hunsaker Creek Watershed Project, Dyer County, Tennessee.

FOR FURTHER INFORMATION CONTACT: Donald C. Bivens, State Conservationist, Soil Conservation Service, 675 U.S. Courthouse, Nashville, Tennessee 37203, telephone (615) 251–5471.

SUPPLEMENTARY INFORMATION: A determination has been made by Donald C. Bivens that the proposed works of improvement for the Lewis-Hunsaker Creek Watershed project will not be installed. The sponsoring local organizations have concurred in this determination and agree that Federal funding should be deauthorized for the project. Information regarding this determination may be obtained from Donald C. Bivens, State Conservationist, at the above address and telephone number.

No administrative action on implementation of the proposed deauthorization will be taken until 60 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: May 22, 1985.

Donald C. Bivens,

State Conservationist.

[FR Doc. 85–13351 Filed 6–3–85; 8:45 am]

BILLING CODE 3410–16–M

Buffalo Creek Watershed, Pennsylvania

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Buffalo Creek Watershed, Union County, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. James H. Olson, State Conservationist, Soil Conservation Service, Federal Building, 228 Walnut Street, Harrisburg, Pennsylvania 17108, telephone (717) 782–4453.

SUPPLEMENTARY INFORMATION: The environmental evaluation of this federally assisted action indicates that the measure will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. James H. Olson, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for watershed protection. The planned works of improvement include the installation of conservation and management practices for erosion and sediment control on 18,800 acres of cropland.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, State and local agencies, and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental evaluation are on file and may be reviewed by contacting James H. Olson.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program N. 10.904, Watershed Protection and Flood Prevention Program. Presidential executive order 12372 establishing the state and local review of federal and federally assisted programs and projects is applicable)

Dated: May 23, 1985.

James H. Olson,

State Conservationist.

[FR Doc. 85–13316 Filed 6–3–85; 8:45 am]

BILLING CODE 3410–16–M

COMMISSION ON CIVIL RIGHTS

Massachusetts Advisory Committee; Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Massachusetts Advisory Committee to the Commission will convene at 2:30 p.m. and will adjourn at 9:30 p.m. on June 19, 1985, at the University of Massachusetts at Boston, 100 Arlington Street, 1st Floor Lounge, Boston, Massachusetts. The purpose of the meeting is to conduct a forum on confronting racial violence in Boston in cooperation with the Greater Boston Coalition, University of Massachusetts, Boston.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Phillip Perlmutter or Jacob Schlitt, director of the New England Regional Office at (617) 233–4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 29, 1985

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85–13248 Filed 6–3–85; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Issuance of an Export Trade Certificate of Review.

SUMMARY: The Department of Commerce has issued an export trade certificate of review to United Export Trading Association (UETA). This notice summarizes the conduct for which certification has been granted.

ADDRESS: The Department requests public comments on this certificate. Interested parties should submit their written comments, original and five (5) copies, to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 5618, Washington, D.C. 20230.

Comments should refer to the certificate as "Export Trade Certificate of Review, application number 83–00023, Amendment #1."

FOR FURTHER INFORMATION CONTACT: James V. Lacy, Director, Office of Export Trading Company Affairs, International Trade Administration, 202–377–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 ("the Act") (Pub. L. No. 97–290) authorized the Secretary of Commerce to issue export trade certificates of review. The regulations implementing the Act are found at 15 CFR Part 325 (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Secretary of Commerce to publish in the **Federal Register** a summary of each certificate issued. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

Export Trade

Pursuant to U.S. Customs regulations and under Customs bond, tax-free and duty-free alcoholic beverages, tobacco and tobacco products that are handled in bond exclusively for export to persons exiting the United States across the United States-Mexico land border ("Covered Products").

Export Market

Mexico

Members

International Bonded Warehouses, Inc.; Ayoub Exports, Inc.; Hidalgo Custom Bonded Warehouse, Inc., d/b/a Brady's; Universal Bonded Stores, Inc.; Capin's Duty Free Warehouse; States Import-Export Inc.; Hugo's International Liquors; Ronnie Guerra's International Traders, Inc.; and King Mart Export, Inc.

Export Trade Activities and Methods of Operation

(a) To enter into agreements with Suppliers of Covered Products acting as the exclusive Purchasing Agent for its Members.

(b) To enter into agreements with its Members to resell the purchased Covered Products to the Members exclusively for export wherein:

(1) UETA agrees to serve as the exclusive Purchasing Agent of Covered Products for the Members; and

(2) The Members agree not to purchase the Covered Products, directly or indirectly, from any other entity.

(c) To enter into agreements with its Members on all matters relating to the purchase, handling and sale of Covered Products for export, including agreements to:

(1) Establish prices at which Covered Products will be sold by Members for export,

(2) Establish quantities of Covered Products to be sold by Members for export,

(3) Allocate territories or customers among Members,

(4) Determine the types and the mix of Covered Products purchased by UETA,

(5) Warehouse the Covered Products prior to delivery to its Members,

(6) Provide to Members financing, transportation, insurance, accounting and legal services related to the purchase and sale of Covered Products for export,

(7) Determine the inventory levels of the Covered Products for export,

(8) Determine the internal distribution to Members of profits or loss derived by UETA,

(9) Determine the hours of operation of the Members' sales outlets, and

(10) Determine the terms and conditions for sale of Covered Products or provision of related services to nonmembers.

(d) To prescribe the following conditions for membership and membership withdrawal:

(1) UETA may limit membership to those firms that operate at least one outlet engaged in duty free sales on the Mexican border, that are in compliance with all applicable Treasury and Customs regulations, and that demonstrate sufficient financial responsibility to obtain a standby letter of credit from a bank for expected purchases from UETA.

(2) Any member may withdraw from UETA after giving the Governing Committee written notice, but UETA may require that such Member continue to comply with the agreements specified in paragraph (c) above and that the Member not compete with UETA or its remaining Members in a manner inconsistent with the agreements referred to in paragraph (c) above for a period not to exceed twelve months after its notice of withdrawal, provided, however, that the required compliance does not constitute a penalty or less favorable treatment to the withdrawing Member than the treatment being accorded to remaining Members with respect to the agreements referred to in paragraph (c) above.

(e) To collect information from and to discuss and communicate information with (i) representatives of two or more Members (whether or not a representative of UETA participates) or (ii) a representative of UETA and a representative of one or more Members, regarding competitive conditions or other facts relevant to the sale of the Covered Products in the Export Market. Such communications may occur either in person or during telephone calls or in any other manner. For purposes of this certificate of review, competitive conditions and other facts are:

(1) Any conditions relating to past, present or possible future supply or demand in the Export Market for the Covered Products in order to formulate UETA's general business and expansion plans;

(2) Any past, present or possible future price of the Covered Products for the Export Market;

(3) Any past, current or possible future cost factors of UETA and of any Member relating specifically to the sale of the Covered Products for the Export Market;

(4) Any marketing strategy or activity in the Export Market of any Member, nonmember or any Supplier of the Covered Products to the Export Market, such as opening, closing or expansion of export outlets and similar plans and developments relevant to the formulation of UETA's business plans;

(5) Any information regarding past, present or possible future inventories and turnover of Covered Products held by Members in order to establish inventory requirements for UETA itself.

A copy of each certificate is available for inspection and copying in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230.

Dated: May 29, 1985.

Douglas A. Riggs,

General Counsel.

[FR Doc. 85-13330 Filed 6-3-85; 8:45 am]

BILLING CODE 3510-DR-M

[C-533-055]

Oleoresins From India; Revocation of Countervailing Duty Order

AGENCY: International Trade Adminstration/Import Administration Department of Commerce.

ACTION: Notice of revocation of countervailing duty order.

SUMMARY: As a result of a request by the Government of India, the International Trade Commission conducted an investigation and determined that revocation of the countervailing duty order on oleoresins from India would not cause, or threaten to cause, material injury to an industry in the United States. The Department of Commerce consequently is revoking the countervailing duty order. All entries of this merchandise on or after December 30, 1982 will be liquidated without regard to countervailing duties.

EFFECTIVE DATE: June 4, 1985.

FOR FURTHER INFORMATION CONTACT: Bernard Carreau or Paul Marselian, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION: On April 9, 1979, the Treasury Department published in the **Federal Register** a countervailing duty order on oleoresins from India (44FR 21009).

On December 30, 1982, the International Trade Commission ("the ITC") notified the Department of Commerce ("the Department") that the Government of India had requested an injury determination for this order under section 104(b) of the Trade Agreements Act of 1979 ("the TAA"). It was not necessary for the Department, upon notification from the ITC, to suspend liquidation of entries of the merchandise pursuant to that section of the TAA, since previous suspensions remained in effect.

On March 8, 1985, the ITC notified the Department of its determination (50 FR 10118, March 5, 1985) that an industry in the United States would not be materially injured, or threatened with material injury, nor would the establishment of such an industry be materially retarded, by reason of imports of oleoresins from India if the order were revoked.

As a result, the Department is revoking the countervailing duty order concerning oleoresins from India with respect to all merchandise entered, or withdrawn from warehouse, for consumption on or after December 30, 1982, the date the Department received notification of the request for an injury determination.

The Department will instruct the Customs Service to proceed with liquidation of all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after December 30, 1982, without regard to countervailing duties, and to refund any estimated counervailing duties collected with respect to these entries.

This revocation and notice are in accordance with section 104(b)(4)(B) of the TAA (19 U.S.C. 1671 note).

Dated: May 29, 1985.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 85-13301 Filed 6-3-85; 8:45 am]

BILLING CODE 3510-DS-M

[A-435-401]

Termination of Antidumping Duty Investigations; Carbon Steel Products From Czechoslovakia

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On May 28, 1985, United States Steel Corporation withdrew its antidumping petition, filed on December 14, 1984, on Carbon Steel Products from Czechoslovakia. Based on the withdrawal, we are terminating the investigations.

EFFECTIVE DATE: June 4, 1985.

FOR FURTHER INFORMATION CONTACT: Mary Jenkins, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-1756.

SUPPLEMENTARY INFORMATION:

Case History

On December 14, 1984, we received a petition from United States Steel Corporation filed on behalf of the U.S. industry producing carbon steel products.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate antidumping investigations. We notified the International Trade Commission (ITC) of our action and initiated the investigations on January 8, 1985 (50 FR 1912). On February 4, 1985, the ITC found that there was a reasonable indication that imports of carbon steel products from Czechoslovakia materially injure, or threaten material injury to, a United States industry.

Scope of the Investigations

The products under investigation are carbon steel plate and cold-rolled carbon steel flat-rolled products. *The term "carbon steel plate"* covers hot-rolled carbon steel products, whether or not corrugated or crimped; not pickled; not cold-rolled; not in coils; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal and not clad; 0.1875 inch or more in thickness and over 8 inches in width; as currently provided for in item 607.6220, and 607.6625 of the *Tariff Schedules of the United States, Annotated* (TSUSA). Semifinished products of solid rectangular cross section with a width at least four times the thickness and processed only through primary mill hot-rolling are not included.

The term *"cold-rolled carbon steel flat-rolled products"* covers cold-rolled carbon steel flat-rolled products, whether or not corrugated or crimped; whether or not painted or varnished and whether or not pickled; not cut, or not pressed, and not stamped to non-rectangular shape; not coated or plated with metal and not clad; over 12 inches in width, and 0.1875 inch or more in thickness; as currently provided for in item 607.8320 of the *TSUSA;* or over 12 inches in width and under 0.1875 inch in thickness; whether or not in coils; as currently provided for in items 607.8350, 607.8355 or 607.8360 of the *TSUSA.*

According to the petitioner, merchandise produced by East Slovak Iron and Steel Works and NHKG-Nova Hut Kelmenta Gottwalda accounted for all the exports of this merchandise to the United States. We investigated all sales of carbon steel products during the period July 1 through December 31, 1984.

Withdrawal of Petition

On May 28, 1985, petitioner notified us that it was withdrawing its petition, and requested that the investigations be terminated. Under section 734(a) of the Tariff Act of 1930 (the Act), as amended by section 604 of the Trade and Tariff Act of 1984, upon withdrawal of a petition, the administering authority may terminate an investigation after giving notice to all parties to the investigation. This withdrawal is based on arrangements with the Government of Czechoslovakia to limit the volume of imports of this product. We have assessed the public interest factors set out in section 734(a) of the Act and consulted with potentially affected producers, workers, and consuming interests and with the ITC. On the basis of our assessment of the public interest factors and our consultations with affected interests, we have determined that terminations would be in the public interest.

We have notified all parties to the investigations and the ITC of petitioner's withdrawal and our intention to terminate.

For these reasons, we are terminating our investigations.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

May 29, 1985.

[FR Doc. 85-13404 Filed 6-3-85; 8:45 am]

BILLING CODE 3510-DS-M

[A-437-401]

Termination of Antidumping Duty Investigations; Certain Carbon Steel Products From Hungary

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On May 28, 1985, the United States Steel Corporation withdrew its antidumping petition, filed on December 19, 1984, on certain carbon steel products from Hungary. Based on the withdrawal, we are terminating the investigations.

EFFECTIVE DATE: June 4, 1985.

FOR FURTHER INFORMATION CONTACT: Ken Stanhagen, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-1777.

SUPPLEMENTARY INFORMATION:

Case History

On December 19, 1984, we receive a petition from the United States Steel Corporation filed on behalf of the U.S. industry producing certain carbon steel products.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate antidumping investigations. We notified the International Trade Commission (ITC) of our action and initiated the investigations on January 8, 1985 (50 FR 1914). On February 4, 1985, the ITC found that there was a reasonable indication that imports of certain carbon steel products from Hungary materially injure, or threaten material injury to, a United States industry.

Scope of Investigations

The merchandise covered by these investigations is carbon steel plate and hot-rolled carbon steel flat-rolled products (herein referred to collectively as certain carbon steel products).

The term "carbon steel plate" covers hot-rolled carbon steel products, whether or not corrugated or crimped; not pickled and not cold-rolled; not in coils, not cut, not pressed and not stamped to non-rectangular shape; not coated or plated with metal and not clad; 0.1875 inch or more in thickness and over 8 inches in width; as currently provided for in items 607.6620, and 607.6625 of the *Tariff Schedules of the United States, Annotated* (TSUSA). Semifinished products of solid rectangular cross section with a width at least four times the thickness and processed only through primary mill hot-rolling are not included.

The term "hot-rolled carbon steel flat-rolled products" covers hot-rolled carbon steel products, whether or not corrugated or crimped, not cold-rolled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal and not clad; 0.1875 inch or more in thickness and over 8 inches in width and in coils, as currently provided for in item 607.6610 of the *TSUSA;* or under 0.1875 inch in thickness and over 12 inches in width, whether or not pickled, whether or not coils, as currently provided for in items 607.6710, 607.6720, 607.6730, 607.6740, or 607.8342 of the *TSUSA*.

Withdrawal of Petition

On May 28, 1985, petitioner notified us that it was withdrawing its petition, and requested that the investigations be terminated. Under section 734(a) of the Tariff Act of 1930 (the Act), as amended by section 604 of the Trade and Tariff Act of 1984, upon withdrawal of a petition, the administering authority may terminate an investigation after giving notice to all parties to the investigation. This withdrawal is based on arrangements with the Government of Hungary to limit the volume of imports of these products. We have assessed the public interest factors set out in section 734(a)(2) of the Act, and consulted with potentially affected producers, workers, and consuming interests and with the ITC. On the basis of our assessment of the public interest factors and our consultations with affected interests, we have determined that termination would be in the public interest.

We have notified all parties to the investigations and the ITC of petitioner's withdrawal and our intention to terminate.

For these reasons, we are terminating our investigations.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

May 29, 1985.

[FR Doc. 85-13405 Filed 6-3-85; 8:45 am]

BILLING CODE 3510-DS-M

[A-469-008]

Carbon Steel Wire Rod From Spain; Intention To Review and Preliminary Results of Changed Circumstances Administrative Review and Tentative Determination To Revoke Antidumping Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of Intention to Review and Preliminary Results of Changed Circumstances Administrative Review and Tentative Determination to Revoke Antidumping Duty Order.

SUMMARY: The Department of Commerce has received information which shows changed circumstances sufficient to warrant an administrative review, under section 751(b)(1) of the Tariff Act, of the antidumping duty order on carbon steel wire rod from Spain. The review covers the period from October 1, 1984. The petitioners to this proceeding have notified the Department that they are no longer interested in the antidumping duty order. Their affirmative statement of no interest provides a reasonable basis for the Department to revoke the order. Therefore, we tentatively determine to revoke the order. The revocation will apply to all carbon steel wire rod entered, or withdrawn from warehouse,

for consumption on or after October 1, 1984. Interested parties are invited to comment on these preliminary results and tentative determination to revoke.

EFFECTIVE DATE: October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Stephen Munroe or G. Leon McNeill, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–5255.

SUPPLEMENTARY INFORMATION:

Background

On November 23, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 46181) an antidumping duty order on carbon steel wire rod from Spain.

In a letter dated May 9, 1985, Continental Steel Corporation, Georgetown Steel Corporation, North Star Steel-Texas, Inc., Raritan River Steel Company, and Atlantic Steel Company, the petitioners in this proceeding, informed the Department that they were no longer interested in the order and stated their support of revocation of the order. Under section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department may revoke an antidumping duty order that is no longer of interest to domestic interested parties.

Scope of the Review

Imports covered by the review are shipments of carbon steel wire rod currently classifiable under item 607.17 of the Tariff Schedules of the United States. The review covers the period from October 1, 1984.

Preliminary Results of the Review and Tentative Determination

As a result of our review, we preliminarily determine that the petitioners' affirmative statement of no interest in continuation of the antidumping duty order on carbon steel wire rod from Spain provides a reasonable basis for revocation of the order. In light of the October 1, 1984 effective date for revocation requested by the petitioners, there is good cause (as required by section 751(b)(2) of the Tariff Act) to conduct this review at this time.

Therefore, we tentatively determine to revoke the order on carbon steel wire rod from Spain effective October 1, 1984. We intend to instruct the Customs Service to proceed with liquidation of all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after October 1, 1984 without regard to antidumping duties and to refund any estimated antidumping duties collected with respect to those entries. The current requirement for a cash deposit of estimated antidumping duties will continue until publication of the final results of this review.

This notice does not cover unliquidated entries of carbon steel wire rod from Spain which were entered, or withdrawn from warehouse, for consumption prior to October 1, 1984. The Department will cover any such entries in a separate review, if one is requested.

Interested parties may submit written comments on these preliminary results and tentative determination to revoke within 30 days of the date of publication of this notice, and may request a hearing within five days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. The Department will publish the final results of the review and its decision on revocation, including its analysis of issues raised in any such written comments or at a hearing.

This intention to review, administrative review, tentative determination to revoke, and notice are in accordance with sections 751(b) and (c) of the Tariff Act (19 U.S.C. 1675(b), (c)) and §§ 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

May 28, 1985.

[FR Doc. 85–13407 Filed 6–3–85; 8:45 am]

BILLING CODE 3510–DS–M

[A–580–506]

12-Volt Lead-Acid Type Automotive Storage Batteries From Korea; Initiation of Antidumping Duty Investigation

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether 12-volt lead-acid type automotive storage batteries from Korea are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of this product are causing material injury, or threaten material injury, to a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before June 24, 1985, and we will make ours on or before October 15, 1985.

EFFECTIVE DATE: June 4, 1985.

FOR FURTHER INFORMATION CONTACT: Michael Ready, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377–2613.

SUPPLEMENTARY INFORMATION:

The Petition

On May 8, 1985, we received a petition in proper form filed by General Battery International Corporation on behalf of the Puerto Rican regional 12-volt lead-acid type automotive storage battery industry. In compliance with the filing requirements of section 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from Korea are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are causing material injury, or threaten material injury, to a United States industry.

The petitioner based on the United States prices on price quotes from Korea exporters. From these quoted prices, the petitioner deducted freight costs and other appropriate charges.

The petitioner based foreign market value on constructed value. The petitioner calculated constructed value based on the estimated cost of production of the subject merchandise in Korea with additions for general expenses, profit and packing costs.

By comparing the values calculated by the foregoing methods, dumping margins ranging form 5 to 36 percent are indicated.

Initiation of Investigation

Under Section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations.

We examined the petition on 12-volt lead-acid type automotive storage batteries and have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating

an antidumping duty investigation to determine whether 12-volt lead-acid type automotive storage batteries from Korea are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally we will make our preliminary determination by October 15, 1985.

Scope of Investigation

The products under investigation are 12-volt lead-acid type automotive storage batteries currently classifed in the *Tariff Schedules of the United States, Annotated* (TSUSA), under item 683.05.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by June 24, 1985, whether there is a reasonable indication that imports of 12-volt lead-acid type automotive storage batteries from Korea are causing material injury, or threaten material injury, to a United States industry. If its determination is negative the investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 85-13406 Filed 6-3-85; 8:45 am]

BILLING CODE 3510-DS-M

[C-469-009]

Carbon Steel Wire Rod From Spain; Intention To Review and Preliminary Results of Changed Circumstances Administrative Review and Tentative Determination To Revoke Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of Intention to Review and Preliminary Results of Changed Circumstances Administrative Review and Tentative Determination to Revoke Countervailing Duty Order.

SUMMARY: The Department of Commerce has received information which shows changed circumstances sufficient to warrant an administrative review, under section 751(b)(1) of the Tariff Act, of the countervailing duty order on carbon steel wire rod from Spain. The review covers the period from October 1, 1984. The petitioners to this proceeding have notified the Department that they are no longer interested in the countervailing duty order. This affirmative statement of no interest provides a reasonable basis for the Department to revoke the order. Therefore, we intend to revoke the order. In accordance with the petitioners' notification, the revocation will apply to all carbon steel wire rod entered, or withdrawn from warehouse, for consumption on or after October 1, 1984. Interested parties are invited to comment on these preliminary results and tentative determination to revoke.

EFFECTIVE DATE: October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Susan Silver or Barbara Williams, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On July 10, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 28089) a countervailing duty order on carbon steel wire rod from Spain.

In a letter dated May 9, 1985, Atlantic Steel Company, Continental Steel Company, Georgetown Steel Corporation, North Star Steel Texas, Inc, and Raritan River Steel Company, the petitioners in this proceeding, informed the Department that they were no longer interested in the order and stated their support of revocation of the order. Under section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department may revoke a countervailing duty order that is no longer of interest to domestic interested parties.

Scope of the Review

Imports covered by the review are shipments of Spanish carbon steel wire rod. Such merchandise is currently classifiable under item 607.1700 of the Tariff Schedules of the United States Annotated. The review covers the period from October 1, 1984.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the domestic interested parties' affirmative statement of no interest in continuation of the countervailing duty order on carbon steel wire rod from Spain provides a reasonable basis for revocation of the order. In light of the October 1, 1984 effective date for revocation requested by the petitioners, there is good cause (as required by section 751(b)(2) of the Tariff Act) to conduct this review at this time.

Therefore, we tentatively determine to revoke the order on this product effective October 1, 1984. We intend to instruct the Customs Service to proceed with liquidation of all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after October 1, 1984 without regard to countervailing duties and to refund any estimated countervailing duties collected with respect to those entries. The current requirement for a cash deposit of estimated countervailing duties will continue until publication of the final results of this review.

This notice does not cover unliquidated entries of carbon steel wire rod from Spain which were entered, or withdrawn from warehouse, for consumption prior to October 1, 1984, and which were not covered in a prior administrative review. The Department will cover any such entries in a separate review, if one is requested.

Interested parties may submit written comments on these preliminary results and tentative determination to revoke within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within five days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. The Department will publish the final results of the review and its decision on revocation, including its analysis of issues raised in any such written comments or at a hearing.

This intention to review, administrative review, tentative determination to revoke, and notice are in accordance with sections 751 (b) and (c) of the Tariff Act (19 U.S.C. 1675 (b), (c)) and sections 355.41 and 355.42 of the Commerce Regulations (19 CFR 355.41, 355.42).

Dated: May 28, 1985.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 85-13302 Filed 6-3-85; 8:45 am]

BILLING CODE 3510-DS-M

Certain Steel Products From Spain; Intention To Review and Preliminary Results of Changed Circumstances Administrative Review and Tentative Determination To Revoke Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration; Department of Commerce.

ACTION: Notice of Intention to Review and Preliminary Results of Changed Circumstances Administrative Review and Tentative Determination to Revoke Countervailing Duty Order.

SUMMARY: The Department of Commerce has received information which shows changed circumstances sufficient to warrant an administrative review, under section 751(b)(1) of the Tariff Act, of the countervailing duty order on certain steel products from Spain. The review covers the period from October 1, 1984. The petitioners and the other domestic interested party to this proceeding have notified the Department that they are no longer interested in the countervailing duty order. These affirmative statements of no interest provide a reasonable basis for the Department to revoke the order. Therefore, we intend to revoke the order. In accordance with the petitioners' notifications, the revocation will apply to all certain steel products entered, or withdrawn from warehouse, for consumption on or after October 1, 1984. Interested parties are invited to comment on these preliminary results and tentative determination to revoke.

EFFECTIVE DATE: October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Susan Silver or Barbara Williams, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–2786..

SUPPLEMENTARY INFORMATION:

Background

On January 3, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 51) a countervailing duty order on certain steel products from Spain.

In Letters dated January 18, 1985 and May 2, 1985, United States Steel Corporation, Republic Steel Corporation, Inland Steel Company, Jones & Laughlin Steel, Inc., National Steel Corporation, and Cyclops Corporation, the petitioners in this proceeding, informed the Department that they were no longer interested in the order and stated their supported of revocation of the order. The Department received a similar letter from the other domestic interested party to the proceeding, Bethlehem Steel Corporation. Under section 751 of the Tariff Act of 1930 ("the Tariff Act"), the department may revoke a countervailing duty order that is no longer of interest to domestic interested parties.

Scope of the Review

Imports covered by the review are shipments of Spanish certain steel products. Such merchandise is currently classifiable under items 609.8005, 609.8015, 609.035, 609.8041, 609.8045, 607.6620, 607.6625, 607.8320, 67.8355, 607,8360, 608.0710, 608.0730, 608.1100, 608.1310, 608.1320, 608.1330, 606.8310, 606.8330, 606.8350, 606.8805, 606.8815 of the Tariff Schedules of the United States Annotated. The review covers the period from October 1, 1984.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the domestic interested parties' affirmative statements of no interest in continuation of the countervailing duty order on certain steel products from Spain provide a reasonable basis for revocation of the order.

Therefore, we tentatively determine to revoke the order on this product effective October 1, 1984. We intend to instruct the Customs Service to proceed with liquidation of all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after October 1, 1984 without regard to countervailing duties and to refund any estimated countervailing duties collected with respect to those entries. The current requirement for a cash deposit of estimated countervailing duties will continue until publication of the final results of this review.

This notice does not cover unliquidated entries of certain steel products from Spain which were entered, or withdrawn from warehouse, for consumption prior to October 1, 1984, and which were not covered in a prior administrative review. The Department will cover any such entries in a separtate review, if one is requested.

Interested parties may submit written comments on these preliminary results and tentative determination to revoke within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within five days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. The Department will publish the final results of the review and its decision on revocation, including its analysis of issues raised in any such written comments or at a hearing.

This intention to review, administrative review, tentative determination to revoke, and notice are in accordance with sections 751(b) and (c) of the Tariff Act (19 U.S.C. 1675(b), (c)) and sections 355.41 and 355.42 of the Commerce Regulations (19 CFR 355.41, 355.42).

Dated: May 28, 1985

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 85–13303 Filed 6–3–85; 8:45 am]

BILLING CODE 3510–DS–M

[A–538–404]

Fabric Expanded Neoprene Laminate From Japan; Final Determination of Sales at Less Than Fair Value

SUMMARY: We have determined that fabric expanded neoprene laminate from Japan is being sold in the United States at less than fair value. The United States International Trade Commission (ITC) will determine within 45 days of publication of this notice whether these imports are materially injuring, or are threatening to materially injure, a United States industry.

EFFECTIVE DATE: June 4, 1985.

FOR FURTHER INFORMATION CONTACT: William D. Kane, Office of Investigations, United States Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 377–1766.

SUPPLEMENTARY INFORMATION:

Case History

On October 1, 1984, we received a petition filed by Rubatex Corporation, on behalf of the U.S. industry producing fabric expanded neoprene laminate. In compliance with the filing requirements of § 353.36 of our Regulations (19 CFR 353.36), the petition alleged that imports of fabric expanded neoprene laminate from Japan are being sold, or are likely to be sold, in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are materially injuring, or are threatening to materially injure, a United States industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping investigation. We notified the ITC of our action and initiated such an investigation on October 22, 1984 (49 FR 42970). The ITC subsequently found,

on November 14, 1984, that there is a reasonable indication that imports of fabric expanded neoprene laminate are materially injuring, or are threatening to materially injure, a United States industry.

The petitioner alleged that at least five Japanese companies produce fabric expanded neoprene laminate for export to the United States. We found that two of these companies, Yamamoto Corporation (Yamamoto) and Asahi Rubber Co., Ltd. (Asahi), accounted for 60 percent of sales to the United States during the period of investigation. Questionnaires were presented to these companies in Japan on November 8, 1984. Yamamoto responded to the questionnaire on December 26, 1984. Asahi responded on December 31, 1984. Sedo Chemicals Co., Ltd. (Sedo) and Daiwa Rubber & Chemicals Co., Ltd. (Daiwa) also filed voluntary responses to the antidumping questionnaire on December 31, 1984. As these voluntary responses were received in a timely manner, permitting complete review, verification and analysis, sales by these companies were included in our investigation.

On March 11, 1985, we preliminarily determined that fabric expanded neoprene laminate from Japan was being, or was likely to be, sold in the United States at less than fair value (50 FR 10518).

Our notice of preliminary determination provided interested parties an opportunity to submit views orally and in writing. Verifications were conducted at Osaka and Kobe, Japan at the corporate offices of Yamamoto, Asahi, Sedo and Daiwa on March 18 thru 29, 1985.

On April 22, 1985, we held a public hearing.

Scope of Investigation

The product covered by the investigation is fabric expanded neoprene laminate, currently provided for in items 355.81, 355.82, 359.50 and 359.60 of the *Tariff Schedules of the United States, Annotated* (TSUSA). We investigated sales of fabric expanded neoprene laminate by the four respondents during the period from May 1, 1984, to October 31, 1984. A fifth company, Misuzu Chemical Industry Co., Ltd. (Misuzu) filed a voluntary response on March 29, 1985. Statutory time constraints did not permit inclusion of their data in our investigation.

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772 of the Act, we used the purchase price of fabric expanded neoprene laminate to represent the United States price for sales by the Japanese producers because the merchandise was sold prior to the date of importation to unrelated United States purchasers. We calculated the purchase price on the FAS or FOB Japanese port, or CIF, packed price to unrelated purchasers in the United States or to unrelated trading companies for sale to the United States. We made deductions, where appropriate, for foreign inland freight, foreign brokerage and handling charges, ocean freight and marine insurance.

Yamamoto

One U.S. sale was found to have been subsequently cancelled. This sale was not considered in our calculations. In the original submission some sales late in the period were assigned zero inland freight and packing amounts because invoices for the services from sub-contractors were not available. At the time of verification these amounts were presented and verified.

Asahi

Brokerage and handling charges for these sales were found to be in error. These were revised to reflect the correct amounts.

Sedo

Sales transactions to the U.S. were in Japanese yen. One customer remitted payment in U.S. dollars which resulted in a net return in Japanese yen which differed from invoice prices in the Sedo U.S. sales listing. These were corrected to reflect the amounts actually received. Small differences in amounts claimed for brokerage were corrected.

Foreign Market Value

In accordance with section 773(a) of the Act, we calculated foreign market value for Yamamoto, Sedo, Daiwa and certain sales by Asahi based on home market ex-factory or delivered, packed and unpacked prices to unrelated purchasers in the home market. For sales of fire-retardant products by Asahi we based foreign market value on delivered Japanese port, packed prices to unrelated trading companies for sale to Canada, because there were no sales of such for similar merchandise in the home market. We made deductions, where appropriate, for foreign inland freight and cash discounts. We made adjustments for advertising and warranty expenses, where appropriate, in accordance with § 353.15 of the Commerce Regulations. We made adjustments for cost differences in comparisons of similar merchandise in accordance with § 353.16 of the Commerce Regulations. We also deducted the home market or third country packing cost where appropriate, and added the packing cost incurred on sales to the United States.

Yamamoto

As verified home market sales prices revealed no consistent pattern of price discrimination based on category of purchaser, we included sales to both end-users and unrelated trading companies in our final calculations. Prior to verification Yamamoto submitted calculations for home market inland freight and packing which were services performed by company employees. Those amounts were verified and allowed. Warranty expenses claimed by Yamamoto were found to related to a sale outside the period of investigation and were not allowed. At our request Yamamoto revised their home market average credit cost allocations to reflect actual expenses incurred on each sale. These were verified and allowed. Mathematical errors were discovered in Yamamoto's calculations of cost differences for comparisons of similar merchandise. These were corrected and the revised and verified amounts were allowed.

Asahi

Prior to verification Asahi presented corrections to twenty sales to which they had applied estimated amounts for packing and inland freight charges because of the unavailability of source documents at the time of preparation of the response. The corrected amounts were verified and allowed. One sale price was found to be incorrect and was adjusted to reflect the true price. Inland freight charges for two sales could not be documented and were not allowed. Included in an amount for "advertising" and "other direct selling expenses" was a portion of sample sheets supplied to individual customers free of charge. As we consider this a normal cost of doing business and not directly attributable to a particular sale, that portion was not allowed. A portion of warranty costs related to one sale were found to be borne by an unrelated freight company. That portion of warranty costs was not allowed. A warranty cost attributed to one customer was found to relate to a sale outside the period of investigation and was not allowed. One figure in

calculations of cost differences for comparisons of similar merchandise was found to contain a computational error. This was corrected to reflect the proper amount.

Daiwa

At the time of their original response Daiwa had estimated credit expenses for certain sales at the end of the period of investigation for which documentation was not available. At the time of verification actual amounts for these sales were presented and verified. A claim for a "quality discount" was requested for certain sales. These sales were found to be of grade B material, of which there were no sales to the United States.

As their were sufficient sales of identical grade material, sales of grade B were not considered in our calculations. Warranty expenses attributed to two customers were found to be related to sales outside the period of investigation and were not allowed.

Sedo

One sale price was revised to correct a typographical error. Prior to verification Sedo presented revisions to individual sales data. These revisions were verified and allowed. Sedo claimed as an adjustment for direct selling expenses the travel costs associated with salesman visits to customers. As these costs could not be directly related to the sales under investigation, they were not allowed.

Verification

In accordance with section 776(a) of the Act, we verified all the information used in making this determination. We were granted access to the books and records of the companies involved. We used standard verification procedures, including examination of accounting records, financial statements and selected documents containing relevant information.

Results of Investigation

We made fair value comparisons on all the reported fabric expanded neoprene laminate sold in the United States by the four Japanese companies during the investigative period. We found margins of 4.88 percent to 29.18 percent on 25 percent of sales by Yamamoto. The weighted-average margin was 3.09 percent. For Sedo we found no margins. For Asahi and Daiwa the margins found were de minimis. Therefore, we are excluding Sedo, Asahi and Daiwa from this final determination.

Petitioner's Comments

Comment 1: Petitioner claims that Yamamoto sales of fabric expanded neoprene laminate to an end-user who subsequently manufactures the material into ski masks and motorbike masks should be included in the investigation because such a customer is part of the market for which petitioner seeks relief.

DOC Position: The Department agrees that such sales should be incorporated in our investigation. At no time has the scope of the investigation been limited to exclude a product based on such intended uses.

Comment 2: Petitioner states that the Department should allow only customary warranty expenses during a normal time period.

DOC Position: The Department agrees. Only those warranty expenses directly related to sales during the period of investigation have been allowed. Department policy on this issue is further discussed in response to respondent Yamamoto's comment number 3.

Comment 3: Petitioner contends that an untimely voluntary submission filed by Misuzu Corporation should not be considered in the course of the investigation.

DOC Position: The Department agrees. We have rejected the response of Misuzu from consideration because statutory time constraints would not permit a complete review, verification and analysis of the submitted data.

Respondent's Comments

Yamamoto's Comments

Comment 1: Respondent objected to the use of home market sales to only unrelated trading companies in the calculation of Yamamoto's margin in the Department's preliminary determination, and contended that sales to both end-users and unrelated trading companies should be considered.

DOC Position: The Department agrees. An analysis of verified home market prices shows no evidence of price discrimination based on category of purchaser. Therefore, for our final calculations we have incorporated all home market sales regardless of class of purchaser.

Comment 2: Respondent claims that sales to one customer who manufactures the material into ski masks and motorbike masks should not be considered because they were not made in the ordinary course of trade or in the principal market in Japan.

DOC Position: The Department disagrees. The scope of this investigation includes merchandise sold for many uses, including skimasks and motorbike masks, as explained in the International Trade Commissions preliminary determination. Nor does the fact of Yamamoto having only one such customer demonstrate that such sales would be out of the ordinary course of trade, or not in the principal market, of the fabric expanded neoprene laminate industry in Japan. There is no evidence to suggest that such a customer would not constitute a normal market for manufacturers or trading companies in Japan. Sales to this customer have been included in our calculations.

Comment 3: Respondent contends that their claim for an allowance for warranty expenses should be allowed because it relates to the kind of merchandise under investigation.

DOC Position: The Department disagrees. The requirement for allowance of such sales expenses is that they be directly related to sales under investigation, not simply to the kind of merchandise under investigation. Recognizing that claims under warranty are often, by their nature, delayed, and thus not captured during the period of investigation, the Department has in the past allowed an average warranty cost based on historical experience. However, in the instant case respondent did not compute, or present evidence to compute, such an average. Therefore, these warranty costs were not allowed.

Comment 4: Respondent contends that this investigation was improperly initiated in that it fails to allege the elements necessary for imposition of dumping duties, fails to provide information readily available, and is not brought on behalf of a United States industry.

DOC Position: The Department disagrees. We have found the petition to meet the filing requirements of our regulations. The petitioner alleged sales at less than fair value, and presented reasonably available sales and cost information to substantiate the allegation. The petitioner clearly stated the petition was filed on behalf of the U.S. industry producing the products. Members of that industry have cooperated with the International Trade Commission (ITC) in their injury investigation, and at no time throughout the course of this investigation has any industry member indicated to the Department or the ITC that they do not consider the petition to have been filed on their behalf.

Sedo's Comments

Comment 1: Respondent claims that a clerical error discovered at verification regarding underpayment by one customer on two orders had been

corrected and that prices as stated in their response should be accepted.

DOC Position: The Department agrees. It was clear during the verification that the small unreconciled difference between invoice and payment was the result of bookkeeping error. Evidence subsequently submitted has demonstrated that the full invoiced amount has been received and that there was no intent to misrepresent that amount.

Comment 2: Respondent claims that Japanese yen amounts realized by virtue of currency rate fluctuations should be disregarded in deference to the Japanese yen invoiced amount.

DOC Position: The Department disagrees. The transactions in question were denominated in Japanese yen. These contracts mentioned no equivalent dollar amount, nor any agreed upon exchange rate on which a dollar equivalent might be based. The dollar amount remitted by the customer was apparently at the customer's discretion and unquestioned by the manufacturers. As the transaction was yen denominated, the Department considers yen receipts to represent the price of the merchandise.

Comment 3: Respondent claims an allowance for a salesman's visits to customers should be allowed as a circumstance of sale adjustment.

DOC Position: The Department disagrees. Such a circumstance of sale adjustment must be directly related to the sales under investigation to be allowed. The visits in question could not be demonstrated to be related to those sales during the period of investigation, and these expenses were not allowed.

Asahi Comments

Comment 1: Respondent claims advertising costs should be allowed.

DOC Position: The Department agrees in part. Such advertising costs were found to be directly related to the product under investigation and directed to its ultimated consumers. These expenses were allowed with the exception of sample sheets provided free of charge to Asahi's own customers. The Department considers such free trial samples a normal cost of doing business and not a cost directly related to the sales under investigation.

Daiwa's Comments

Comment 1: Respondent claims warranty costs directly related to the sales under investigation should be allowed.

DOC Position: The Department agrees. All those warranty costs demonstrated to be directly related to the sales under investigation have been allowed.

Misuzu Comments

Comment 1: Misuzu contends that the Department should honor its request for exclusion under § 353.45 of its regulations by verifying and analyzing its response submitted after our preliminary determination.

DOC Position: The Department disagrees, as stated in its letter of May 15, 1985, to counsel for Misuzu. The time constraints placed upon the Department by law and regulation did not permit the full administrative procedures necessary for verification and analysis of a response submitted so late in the proceeding. The Misuzu response has not been considered in our final determination.

Comment 2: Misuzu contends that the Department should include the calculations on all manufacturers investigated in weight-averaging a margin to be applied to all other manufacturers, rather than apply the rate of the one manufacturer with a positive margin.

DOC Position: The Department disagrees. The Departments' long-standing policy is to base the bonding rate for manufacturers and exporters not investigated on the weighted average of the margins applicable to companies covered by an affirmative determination. Manufacturers or exporters which have demonstrated, through verified information, that they do not sell at less than fair value, including those which have *de minimis* margins, are excluded from the determination. The Department does not believe it is appropriate to include in the weighted-average bonding rate companies not covered by the affirmative determination.

Final Determination

Based on our investigation and in accordance with section 735(a) of the Act, we have reached a final determination that fabric expanded neoprene laminate from Japan is being sold in the United States at less than fair value within the meaning of section 731 of the Act.

Suspension of Liquidation

On March 18, 1985, we instructed the United States Customs Service to suspend liquidation of all entries of fabric expanded neoprene laminate from Japan, with the exception of that produced by Asahi, Daiwa and Sedo. As of the date of publication of this notice in the **Federal Register**, the liquidation of all entries, or withdrawals from warehouse, for consumption of this merchandise will continue to be suspended for all firms subject to suspension. The Customs Service shall require a cash deposit or the posting of a bond equal to the new estimated weighted-average amounts shown in this notice for those firms not excluded from this final determination, by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. This suspension of liquidation will remain in effect until further notice. The weighted average margins are as follows:

Manufacturer and states	Weighted average margin (percent)
Yamamoto (subject to suspension)	3.09
Asahi (excluded)	.05
Daiwa (excluded)	.33
Sedo (excluded)	.0
All others (subject to suspension)	3.09

ITC Notification

We are notifying the ITC and making available to it all nonprivileged and nonconfidential information relating to this determination. We will allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. If the ITC determines that such injury does exist, we will issue an antidumping order directing Customs officers to assess an antidumping duty on fabric expanded neoprene laminate from Japan entered or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value exceeds the United States price. This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673d).

Dated: May 28, 1985.

William T. Archey,

Assistant Secretary for Trade Administration.

[FR Doc. 85-13403 Filed 6-3-85; 8:45 am]

BILLING CODE 3510-DS-M

Importers and Retailers' Textile Advisory Committee; Partially Closed Meeting

A meeting of the Importers and Retailers' Textile Advisory Committee will be held on June 13, 1985, 10:00 a.m., Herbert C. Hoover Building, Room 4830, 14th Street and Constitution Avenue,

NW., Washington, D.C. 20230. (The Committee was established by the Secretary of Commerce on August 13, 1963 to advise Department officials of the effects on import markets of cotton, wool, and man-made fiber textile and apparel agreements.)

General Session: 10:00 a.m. Review of import trends, international activities, report on conditions in the market, and other business.

Executive Session: 11:00 a.m. Discussion of matters properly classified under Executive Order 12356 (3 CFR Part 166 (1982) and listed in 5 U.S.C. 552b(c) (1) and (9).

The general session will be open to the public with a limited number of seats available. A notice of Determination to close meetings or portions of meetings to the public on the basis of 5 U.S.C. 552b (c)(1) and (c)(9) has been approved in accordance with the Federal Advisory Committee Act. A copy of the notice is available for public inspection and copying in the Central Facility Room 6628, U.S. Department of Commerce, (202) 377–3031.

For further information or copies of the minutes contact Helen L. LeGrande (202) 377–3737.

Dated: May 31, 1985.

Ronald I. Levin,

Acting Deputy Assitant Secretary for Textiles and Apparel.

[[FR Doc. 85–13546 Filed 6–3–85; 9:26 am]

BILLING CODE 3510-DR-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of the Import Limits for Certain Cotton Textile Products Produced or Manufactured in Indonesia

May 30, 1985.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on June 5, 1985. For further information contact Jane Corwin, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

Background

The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of November 9, 1982 between the Governments of the United States and Indonesia provides, among other things, for percentage increases in specific limit categories during an agreement year (swing), provided an equal square yard equivalent amount is deducted from the limit of another specific category during the same agreement year. Under the terms of the bilateral agreement and at the request of the Government of Indonesia, an increase of 7,739 dozen (swing) is being applied to the restraint limit previously established for men's and boy's cotton knit shirts in Category 338, raising it to 118,301 dozen. The limit for cotton twill and sateen in Category 317 is being reduced to 8,224,277 square yards.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1985).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 30, 1985.

Commissioner of Customs,
Department of the Treasury,
Washington, DC

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of June 27, 1984 which prohibited entry into the United States of certain cotton and man-made fiber textile products produced or manufactured in Indonesia and exported during the period which ends on June 30, 1985.

Effective on June 5, 1985, the directive of June 27, 1984 is hereby further amended to include the following adjusted restraint limits for Categories 317 and 338:

Category	Adjusted restraint limit [1]
317 (square yards)	8,224,277
338 (dozen)	118,301

[1] The limits have not been adjusted to reflect any imports exported after June 30, 1983.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85–13305 Filed 6–3–85; 8:45 am]

BILLING CODE 3510-DR-M

Establishment of Import Restraint Limit for Certain Wool Textile Products Produced or Manufactured in Thailand

May 30, 1985.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on June 5, 1985. For further information contact Jane Corwin, International Trade Specialist (202/377–4212).

Background

On December 20, 1984, a notice was published in the **Federal Register** (49 FR 49492) which established an import restraint limit for women's, girls' and infants' wool knit blouses in Category 438pt. (currently under TSUSA items 383.1307, 383.1309, 383.2511, 383.5234, 383.5810, 383.6310, 383.7724 and 383.9540) produced or manufactured in Thailand and exported during the ninety-day period, November 30, 1984 through February 27, 1985, pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of July 27 and August 8, 1983, as amended, between the Governments of the United States and Thailand. Inasmuch as no agreement has yet been reached during consultations on a mutually satisfactory level for this category, the United States Government has decided, pursuant to the terms of the bilateral agreement, as amended, to establish a specific limit for Category 438pt. for the duration of the agreement. For goods exported during 1985 the limit will be 8,482 dozen. A prorated limit of 736 dozen for the period which began on November 30, 1984 and extended through December 31, 1984 has also been established for goods exported during that period. Further consultations were held on this subject May 15–17.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the TARIFF

SCHEDULES OF THE UNITED STATES ANNOTATED (1985).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 30, 1985.

Commissioner of Customs,
Department of the Treasury,
Washington, D.C.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854) and pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of July 27 and August 8, 1983, as amended, between the Governments of the United States and Thailand; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on June 5, 1985, entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products in Category 438pt.[1], produced or manufactured in Thailand and exported during the twelve-month period which began on January 1, 1985, in excess of the following limit:

Category	12-month restraint level [2]
438pt.[1] (dozen)	8,482

[1] In Category 438 only TSUSA numbers 383.1307, 383.1309, 383.2511, 383.5234, 383.5810, 383.6310, 383.7724 and 383.9540;
[2] The limit has not been adjusted to reflect any imports exported after December 31, 1984.

In carrying out this directive, entries of wool textile products in Category 438pt.[1], which have been exported to the United States during the period beginning November 30, 1984 and extending through December 31, 1984, shall, to the extent of any unfilled balance, be charged against the level established for such goods during that period. In the event the level established for that period has been exhausted by previous entries, such goods shall be subject to the level set forth in this letter.

Textile products in Category 438pt.[1] which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 F.R. 55709), as amended on April 7, 1983 (48 F.R. 15175), May 3, 1983 (48 F.R. 19924), December 14, 1983 (48 F.R. 55607), December 30, 1983 (48 F.R. 57584), April 4, 1984 (49 F.R. 13397), June 28, 1984 (49 F.R. 26622), July 16, 1984 (49 F.R. 28754), November 9, 1984 (49 F.R. 44782), and in Statistical Headnote 5, Schedule 3 of the TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1985).

[1] In Category 438 only TSUSA numbers 383.1307, 383.1309, 383.2511, 383.5234, 383.5810, 383.6310, 383.7724 and 383.9540.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-13307 Filed 6-3-85; 8:45 am]

BILLING CODE 3510-DS-M

Requesting Public Comment on Bilateral Textile Consultations With the Government of the Federative Republic of Brazil on Category 337

May 30, 1985.

On May 13, 1985, the Government of the United States, pursuant to Article 3 and Annex B of the Arrangement Regarding International Trade in Textiles, requested the Government of the Federative Republic of Brazil to enter into consultations concerning exports to the United States of cotton playsuits in Category 337, produced or manufactured in Brazil and exported during the twelve-month period beginning on May 13, 1985.

The purpose of this notice is to advise that, if no solution is agreed upon in consultations between the two governments within sixty days of the date of delivery of the aforementioned note, entry and withdrawal from warehouse for consumption of cotton textile products in Category 337, produced or manufactured in Brazil and exported to the United States during the twelve-month period which began on May 13, 1985, may be restrained at 59,433 dozen.

A summary market statement for this category follows this notice.

Anyone wising to comment or provide data or information regarding the treatment of Category 337 is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Comments or information submitted in response to this will be available for public inspection in the Office of Textile and Apparel, Room 3100 U.S. Department of Commerce, 14th and Constitution Avenue, NW, Washington, D.C. and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Summary and Conclusion

United States imports of Category 337 from Brazil were 52,800 dozens for the year ending March 1985. These compare with 27,700 dozens for the same period one year earlier. Imports in the first three months of 1985 alone, at 41,900 dozen, nearly equaled the total amount of Category 337 imports from Brazil in all of 1983. Annualized, January-March 1985 data would represent a 12 month import level of 168,000 dozen.

The market for Category 337 has been disrupted by imports; imports from Brazil have contributed to this disruption; and removal of the restraints on imports from Brazil would intensify the market disruption.

Imports

U.S. imports of Category 337 from all sources increased 60 percent between 1979 and 1981 and then slowed to a 6.5 percent increase between 1981 and 1983. In 1984 imports rose 51.3 percent to reach a record of 2,768,000 dozens. In the twelve month period ending March 1985, imports of this category were 3,096,000 dozens, 41 percent higher than the same period one year earlier.

U.S. Production and Import-to-Production Ratio

U.S. Production of Category 337 averaged 3,300,000 dozens annually during 1979–1983. Production in 1983, at 3,361,000 dozens, was close to the 1979–1983 average, but 5 percent below the 5-year record level of 3,550,000 dozen produced in 1981.

The import-to-production ratio for Category 337 has grown substantially since 1979. From a level of 33.1 percent in 1979, the ratio grew to 54.4 percent in 1983. With the large increase in imports, the ratio reached an all time high in 1984.

Domestic Producers' Market Share

Domestic producers' share of this market declined from 75.1 percent in 1979 to 64.8 in 1983. In 1984 the share probably dropped below 60 percent due to the large increase in imports.

Import Value vs. Domestic Producers' Price

Over 95 percent of Category 337 imports from Brazil entered under two TSUSA numbers. These numbers are: 383.0335 women's, girls' and infants' (WGI) cotton playsuits, sunsuits, etc., knit and ornamented; and 383.3030 (WGI) other cotton knit playsuits, sunsuits, etc. These garments are entering the U.S. at duty-paid values below the U.S. producers prices for comparable items.

COMMODITY FUTURES TRADING COMMISSION

Agricultural Advisory Committee; Meeting

This is to give notice, pursuant to section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. I, 10(a) and 41 CFR 101-6.1015(b), that the Commodity Futures Trading Commission's Agricultural Advisory Committee will conduct a public meeting in the Fifth Floor Hearing Room at the Commission's Washington, D.C., headquarters located at Room 532, 2033 K Street, NW, Washington, D.C. 20581, on June 21, 1985 beginning at 9:30 a.m. and lasting until 4:30 p.m. The agenda will consist of:

Agenda

1. Discussions concerning "Trade Options" Issues:
   a. "Trade" panel
   b. "Academic" panel
   c. Comments from committee and panelists
2. Other committee business:
   a. Status Report on "Audit Trail" Issue
   b. Discussion of Chicago Board of Trade/National Association of Wheat Growers Petition to Expand Agricultural Options Pilot Program
   c. Discussion of Other Issues For Potential Committee Consideration; Timing of Next Meeting; Other Committee Business

The purpose of this meeting is to solicit the views of the Committee on the above-listed agenda matters. The Advisory Committee was created by the Commodity Futures Trading Commission for the purpose of receiving advice and recommendations on agricultural issues. The purposes and objectives of the Advisory Committee are more fully set forth in the June 4, 1985 first renewal charter of the Advisory Committee.

The meeting is open to the public. The Chairman of the Advisory Committee, Commissioner Kalo A. Hineman, is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Advisory Committee should mail a copy of the statement to the attention of: The Commodity Futures Trading Commission Agricultural Advisory Committee c/o Charles O. Conrad, Commodity Futures Trading Commission, 2033 K Street, NW, Washington, D.C. 20581, before the meeting. Members of the public who wish to make oral statements should also inform Mr. Conrad in writing at the latter address at least three business days before the meeting. Reasonable provision will be made, if time permits, for an oral presentation of no more than five minutes each in duration.

Issued by the Commission in Washington, D.C., on May 29, 1985.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 85-13290 Filed 6-3-85; 8:45 am]

BILLING CODE 6351-01-M

Renewal of the Commodity Futures Trading Commission Agricultural Advisory Committee

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of renewal of Advisory Committee.

SUMMARY: The Commodity Futures Trading Commission has determined to renew for a period of two years the "Commodity Futures Trading Commission Agricultural Advisory Committee." As required by Section 14(a)(2)(A) of the Federal Advisory Committee Act, 5 U.S.C. App. 1, section 14(a)(2)(A) and 41 CFR 101-6.1007 and 101-6.1029, the Commission has consulted with the Committee Management Secretariat of the General Services Administration and the Commission certifies that creation of this advisory committee is necessary and in the public interest in connection with the performance of duties imposed on the Commission by the Commodity Exchange Act, 7 U.S.C. 1 *et seq.*, as amended. This notice is published pursuant to 41 CFR 101-6.1015.

The objectives and scope of activities of the Agricultural Advisory Committee shall be to conduct public meetings and submit reports and recommendations on issues affecting agricultural producers, processors, and lenders and others interested in or affected by the agricultural commodities markets, and to facilitate communications between the Commission and the diverse agricultural and agriculture-related organizations represented on the committee. Commissioner Kalo A. Hineman serves as Chairman and Designated Federal Official of this Advisory Committee. Representatives of producers, processors, lenders and other interested agricultural groups serve as committee members.

Interested persons may obtain a copy of the committee's charter by writing to the Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

Issued in Washington, D.C., on this day of May 29, 1985, by the Commission.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 85-13291 Filed 6-3-85; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

May 22, 1985.

The USAF Scientific Advisory Board Sensors and Signatures Subcommittee of the Ad Hoc Committee on Options for Attack of Strategic Relocatable Targets will meet in the Pentagon on June 18, 1985 from 1:00 p.m., to 5:00 p.m. The purpose of the meeting will be to receive classified briefings and hold classified discussions for evaluating existing and programmed systems which may be effectively applied to attack of mobile ballistic missiles. The meeting will be closed to the public in accordance with section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-4811.

Norita C. Koritko,

Air Force Federal Register Liaison Officer.

[FR Doc. 85-13313 Filed 6-3-85; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

May 21, 1985.

The USAF Scientific Advisory Board Aeronautical Systems Division Advisory Group will meet at the Aeronautical Systems Division Headquarters, Building 14, Room 222, Wright-Patterson Air Force Base, Ohio, on June 19 and 20, 1985, from 8:00 a.m. to 4:30 p.m. and on June 21, 1985, from 8:00 a.m. to 12:00 noon to review programs and projects relating to the mission of the Division.

This meeting will involve classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697–4648.

Norita C. Koritko,

Air Force Federal Register Liaison Officer.

[FR Doc. 85–13314 Filed 6–3–85; 8:45 am]

BILLING CODE 3910–01–M

USAF Scientific Advisory Board; Meeting

May 24, 1985.

The USAF Scientific Advisory Board Ad Hoc Committee on Worldwide Information Systems (WIS) will meet at Hanscom AFB, Massachusetts on July 23 and 24, 1985 from 9:00 a.m. to 5:00 p.m. both days. The purpose of the meeting will be to receive classified briefings and hold classified discussions on the status of the WIS acquisition implementation plans to determine if the technical requirements are practical. The meeting will be closed to the public in accordance with section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697–4811.

Norita C. Koritko,

Air Force Federal Register Liaison Officer.

[FR Doc. 85–13317 Filed 6–3–85; 8:45 am]

BILLING CODE 3910–01–M

USAF Scientific Advisory Board; Meeting

May 27, 1985.

The USAF Scientific Advisory Board Aerospace Medical Division Advisory Group will meet July 2, 1982 at Wright-Patterson AFB OH, Building 33, Room 123, Area B, from 8:30 a.m. to 5:00 p.m. and on July 3, 1985 from 8:30 a.m. to 3:00 p.m.

The purpose of the meeting will be to hold classified discussions on selected programs and projects relating to the mission of the Aerospace Medical Division.

The meeting concerns matters listed in section 552b(c) of Title 5, United States Code, specifically, subparagraph (1) thereof and is closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202–679–8404.

Norita C. Koritko,

Air Force Federal Register, Liaison Officer.

[FR Doc. 85–13430 Filed 6–3–85; 8:45 am]

BILLING CODE 3910–01–M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) on a Proposed Plan To Increase Power-Generation Capabilities at The Dalles Dam on the Columbia River, OR and WA (River Mile 192)

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a DEIS.

The Portland District is currently investigating a plan to increase power-generation capabilities at The Dalles Dam on the Columbia River, Oregon and Washington. The proposed plan would increase the hydraulic head at The Dalles turbines by lowering the water surface of The Dalles tailrace, immediately dowmstream of the powerhouse. Currently, a channel constriction raises the tailrace higher than the backwater effect of Lake Bonneville. Removal of the constriction could lower the tailrace .5-foot, resulting in an annual increase in power production of 7 megawatts. Approximately 460,000 cubic yards of material would be excavated in an 1,100-foot reach and disposed on upland sites.

Initiation of the scoping process will formally commence in late May 1985 with the issuance of a scoping letter containing a draft outline of potential significant effects which will be discussed in the DEIS. Federal, State, and local agencies, Indian tribes, and interested organizations and individuals will be asked to comment on the scoping letter and identify significant issues relating to the proposed project. The DEIS is scheduled for agency and public review in November 1985. The final EIS is scheduled for publication in March 1986.

ADDRESS: If you have any questions or need additional information, please contact Judy Struznik, (503) 221–6094 (FTS 423–6094), U.S. Army Corps of Engineers, Natural Resources Branch, P.O. Box 2946, Portland, Oregon 97208–2946.

Dated: May 24, 1985.

Eugene D. Pospisil,

Acting Assistant Chief, Planning Division.

[FR Doc. 85–13294 Filed 6–3–85; 8:45 am]

BILLING CODE 3710–AR–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 85–12–NG]

Natural Gas Imports, Northwest Pipeline Corp.; Application to Amend Authorization To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Application to Amend Authorization to Import Natural Gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of receipt on May 10, 1985, of the application of Northwest Pipeline Corporation (Northwest) to amend its authorization to import Canadian natural gas. The application requests that the ERA approve the October 1, 1984, letter of agreement that Northwest signed with Westcoast Transmission Company Limited (Westcoast) amending the pricing and volume terms of its contract with Westcoast for the period November 1, 1984, through October 31, 1985. Under the agreement the average unit price of the gas will be $3.40 per MMBtu based on present (33 percent load factor) sales projections. The pricing terms provide for a demand charge of $6 million per month and a commodity charge of $2.78 per MMBtu, which is subject to quarterly adjustment based upon the price of No. 6 fuel oil in the Seattle-Portland area.

The application is filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–111. Protests, motions to intervene or notices of intervention, and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, and written comments are to be filed no later than 4:30 p.m. on July 5, 1985.

FOR FURTHER INFORMATION CONTACT:

Clifford Tomaszewski, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–9760

Diane Stubbs, Office of General Counsel, Natural Gas and Mineral Leasing, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–6667

SUPPLEMENTARY INFORMATION: Northwest is currently authorized to

import gas from Westcoast under DOE/ERA Opinion and Order Nos. 29 and 38 issued March 27, 1981, in Docket No. 81-11-NG and December 21, 1981, in Docket No. 81-31-NG, respectively. These authorizations set an upper limit of $4.94 per MMBtu on the price that can be paid for the gas and allow Northwest to import up to 286 Bcf per year from Westcoast.

Northwest is seeking approval of an October 1, 1984, letter of agreement with Westcoast which covers the price and volume conditions under which Northwest will purchase gas from Westcoast for the period November 1, 1984, through October 31, 1985. The purpose of the agreement is to amend the two Westcoast-Northwest contracts on an interim basis while the parties continue negotiations for a long-term sales agreement which on November 1, 1985, would replace both the Kingsgate sales agreement dated September 23, 1960, and the Fourth Service Agreement dated October 10, 1969. The Kingsgate and Fourth Service agreements and their respective authorizations expire October 31, 1987, and October 31, 1989. The new agreement alters the provisions of these contracts only during the one year interim period, and the original provisions are reinstated November 1, 1985, unless a long-term agreement is reached. Northwest claims that it negotiated this arrangement to bring its existing import arrangements into conformity with the DOE policy guidelines for natural gas imports and the Canadian National Energy Board's (NEB) new policy for natural gas exports.

The agreement establishes a two-part, demand-commodity pricing structure that results in an average unit rate of $3.40 per MMBtu based upon present (33 percent load factor) sales projections. The demand charge is $6 million per month and the commodity charge is $2.78 per MMBtu, subject to quarterly adjustment based upon the price of No. 6 fuel oil in the Seattle-Portland area. The agreement may be renegotiated if either party determines that a price change is necessary to respond to changing circumstances in market demand, alternate fuel and domestic gas prices, or other relevant factors. The agreement requires that Northwest purchase a minimum daily volume of 130 MMcf and a minimum annual volume of 1) 42.5 percent of Northwest's actual sales up to 262 Bcf, plus 2) 75 percent of Northwest's actual sales over 262 Bcf.

Northwest filed the contract amendments with the ERA on October 4, 1984, in accordance with the requirements of Section 590.407 of ERA's administrative procedures. Because Northwest was not proposing to extend the term of its authorization, increase the volume of the authorized imports, or purchase at a price higher than that presently authorized, it was not required to file an application to obtain further approval from the ERA. On October 26, 1984, the ERA acknowledged and accepted the report of contract amendments.

Westcoast applied to the NEB for approval of the agreement and a hearing was held on the matter on October 25, 1984. The Canadian Government approved the one year amendment effective November 1, 1984.

Northwest has applied to the Federal Energy Regulatory Commission (FERC) to amend its purchased gas adjustment (PGA) to track in its rates any future changes in the Westcoast demand and commodity charges. In an October 31, 1984, order, the FERC set for hearing the issue of the appropriate manner for permitting Northwest to flow through its purchased gas costs from Westcoast. (*See* FERC Docket No. TA85-2-37-00, *et al*, 29 FERC ¶ 61,149 at p. 61,323). Northwest is seeking an amendment to its PGA which will allow it to flow through the Westcoast demand and commodity charges on an "as billed" basis to its customers. In response to concerns raised by customers of Northwest about the competitive effects of the proposed "as billed" methodology, the FERC broadened the proceeding on April 30, 1985, to consider the prudence of the Northwest/Westcoast agreement.

Northwest asserts that the claims regarding the prudency of the Northwest/Westcoast agreement, now an issue in the FERC proceeding, "go to the heart of whether imports under the Westcoast Agreement are inconsistent with the public interest and comply with the DOE policy guidelines," and therefore "are fundamental issues concerning import agreements that should be determined by [ERA]." Northwest filed a motion with the FERC to dismiss the prudency issue from the FERC proceeding and initiated this proceeding before the ERA "— the agency empowered under the recent delegation orders to review import applications and contract amendments to existing import authorizations—to allow interested parties to pursue their challenges in the proper forum, and to permit Northwest to obtain the regulatory certainty it requires to implement its present and future import arrangements."

Northwest contends that parties before the FERC "are asserting that the two-part price in the Westcoast Agreement and the projected average import cost of $3.40 are not competitive, and may be anticompetitive, in U.S. markets." Northwest asserts that a determination by the ERA that the agreement, and specifically the two-part rate and the $3.40 per MMBtu average price, (1) is not inconsistent with the public interest, and (2) satisfies the criteria of the DOE guidelines, should constitute "full and sufficient resolution of the prudency challenge improperly raised in the FERC proceedings." Northwest further states that the ERA has determined in previous decisions that "contract amendments providing for lower, two-part rates can satisfy the public interest standard provided that, in all other respects, the revised import arrangement is competitive, allows for greater flexibility, and otherwise comports with DOE Guidelines." Northwest claims that similar findings can and should be made here.

Northwest has requested that the ERA act expeditiously and provide a one-week notice and intervention period since Northwest served the application on all parties to the related FERC proceeding. However, the ERA believes it is important to allow the full 30-day notice and comment period in cases clearly controversial such as this and where significant issues of policy and circumstance may be raised. Therefore, while the ERA will act as expeditiously as possible, it is denying Northwest's request for an abbreviated notice and comment period.

The decision on this application will be made consistent with the Secretary of Energy's gas import policy guidelines, under which competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest. Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant has asserted that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

Other Information

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice or intervention, as applicable.

The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA-033-B, RG-43, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585. They must be filed no later than 4:30 p.m. July 5, 1985.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or a trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR § 590.316.

A copy of Northwest's application is available for inspection and copying in the Natural Gas Division Docket Room, GA-033-B, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

Issued in Washington, D.C., on May 22, 1985.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 85-13285 Filed 6-3-85; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. SA85-26-000]

Chase Exploration Corp.; Chase Gathering Systems, Inc.; Notice of Petition for Adjustment

Issued May 30, 1985.

On May 1, 1985, Chase Gathering Systems, Inc. and Chase Exploration Corporation (Chase) filed with the Federal Energy Regulatory Commission a petition for adjustment under section 502(c) of the Natural Gas Policy Act of 1978 seeking a waiver of Chase's Btu refund obligation under the Commission Orders 399 and 399-A.

On April 30, 1982, both companies initiated bankruptcy proceedings by voluntarily filing a petition for relief under Chapter 11 of the United States Bankruptcy Code. The trustee-in-bankruptcy for the companies argues on their behalf that compliance with Orders 399 and 399-A would impose upon the companies a special hardship by hindering, delaying and otherwise defeating both the intent of the Bankruptcy Code and the trustee's attempts to rehabilitate and reorganize the companies. In support of the petition, the trustee cites the expense of determining the overcharge share of each interest owner and of billing each such owner, the chances of such owner's voluntary payment, the expense of suing recalcitrant owners for their share of the refund obligation, potential statute of limitations defenses which could bar collection of approximately $12,000 of the refund obligations, inadequacy of corporate financial records necessary to recoup most of the overcharges, and the current limited resources of the companies.

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure. Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions of Subpart K. All motions to intervene must be filed within 15 days after publication of this notice in the Federal Register.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-13263 Filed 6-3-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-19707-000, et al.]

Cities Service Oil and Gas Corp., et al.; Notice of Applications To Amend Certificates To Establish Entitlement to Section 109 Price [1]

May 29, 1985.

Take notice that each of the Applicants listed herein has either filed a petition to amend certificate pursuant to section 7 of the Natural Gas Act or notice of change in rate which is being treated as a petition to amend certificate to establish Applicant's right to collect the section 109 price consistent with the court order issued in *Tenneco Exploration Ltd. v. FERC*, 649 F2d 376, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make protest with reference to said applications should on or before June 13, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft [3]	Pressure base
G-19707-000, Aug. 3, 1984	Cities Service Oil and Gas Corporation, P.O. Box 300, Tulsa, Okla. 74102.	Tennessee Gas Pipeline Company, Grand Isle Area, Offshore Louisiana.	[1]	
G-19806-001, June 4, 1984	Cotexo Corporation, Box 300, Cities Service Bldg., Tulsa, Okla. 74102.	Transwestern Pipeline Company, Outlet of LeFors Natural gas Processing Plant, Gray County, Texas.	[1]	
CI77-587-001, Apr. 18, 1985	Sun Exploration and Production Company, P.O. Box 2880, Dallas, Texas 75221-2880.	Transcontinental Gas Supply Company, Brazos Area, South Addition, Block A-70, Offshore Texas.	[1]	

[1] Applicatsion's proposes to amend certificates to establish Applicant's entitlement to collect Section 109 price consistent with court order in *Tenneco Exploration, Ltd.* v. *FERC* 649 F2d 376.

Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Sucession.

[FR Doc. 85-13264 Filed 6-3-85; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. SA85-30-000]

Colonial Corp.; Notice of Petition for Adjustment

Issued: May 30, 1985.

On May 3, 1985, Colonial Corporation (Colonial) filed with the Federal Energy Regulatory Commission a petition for adjustment under section 502(c) of the Natural Gas Policy Act of 1978, seeking a six-month extension of time from May 3, 1985, within which to satisfy its Btu refund obligation under Commission Orders 399 and 399-A. Colonial claims that it is financially unable to meet the May 3 deadline without jeopardizing its financial viability. In support of its petition, Colonial points to its small size, its recent unusual volume of business, and its willingness to refund with interest the amounts due.

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure. Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions of such Subpart K. All motions to intervene must be filed within 15 days after publication of this notice in the Federal Register.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-13265 Filed 6-3-85; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. SA85-24-000]

Colorado Gas Compression, Inc.; Notice of Petition for Adjustment

Issued: May 30, 1985.

On April 26, 1985, Colorado Gas Compression, Inc. (Colorado) filed with the Federal Energy Regulatory Commission a petition for an adjustment under section 502(c) of the Natural Gas Policy Act of 1978. Colorado seeks relief from the May 3, 1985 deadline established by the Commission in Orders 399 and 399-A for refunds of Btu overcharges by small first sellers.

Specifically, Colorado seeks authorization to make these refunds in monthly installments over a period ending November 1986. Colorado states that, for reasons beyond its control, it lacks the financial resources to make the lump sum payment required by the Commission orders, and that such payment would therefore impose upon the company a special hardship, inequity and unfair distribution of burdens.

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure. Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions of such Subpart K. All motions to intervene must be filed within 15 days after publication of this notice in the Federal Register.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-13266 Filed 6-3-85; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER85-404-000]

Commonwealth Edison Co.; Order Accepting for Filing and Suspending Rates, Noting Intervention, Granting Request for Summary Disposition, and Establishing Hearing and Price Squeeze Procedures

Issued: May 28, 1985.

Before Commissioners: Raymond J. O'Connor, Chairman; Georgiana Sheldon, A. G. Sousa, Oliver G. Richard III and Charles G. Stalon.

On March 29, 1985, Commonwealth Edison Company (Company) submitted for filing a proposed two-step increase in its rates for service to its five full requirements customers.[1] The proposed rates also reflect an increase in the Company's meter rental charges (Rider 7) and a change in the Company's Rider 20.[2] The proposed changes would increase revenues to the Company by approximately $7.9 million for Step 1 based upon estimated sales in calendar year 1985 and by approximately an additional $10.5 million for Step 2 on a similar basis. The total increase would be approximately $18.4 million (32%). The Company proposed effective dates of May 29, 1985, for the Step 1 rates and May 30, 1985, for the Step 2 rates.[3]

Notice of the Company's filing was published in the **Federal Register**,[4] with comments due on or before April 23, 1985. The Cities[5] filed a timely motion to intervene and requested a five-month suspension of both steps of the rate increase. The Cities raise a variety of cost of service and rate design issues.[6] They also ask that this proceeding not be expedited, because of the complexity of the case, and request that the price squeeze issues be phased.

On May 8, 1985, the Company filed an answer to the Cities' motion to intervene. While not opposing the Cities' intervention, the Company opposes their request for a five-month suspension. In

[1] The Cities of Batavia, Geneva, Naperville, Rock Falls, and St. Charles, Illinois.

[2] *See* Attachment for rate schedule designations.

[3] In the event that the in-service date for the Company's Byron Unit 1 occurred after May 30, 1985, the Company requested that the Commission suspend the effective date of the Step 2 rates to that in-service date; however, on May 14, 1985, the Company informed the Commission that it had selected April 22, 1985, as the in-service date of the unit.

[4] 50 FR 14,422 (1985).

[5] See note 1.

[6] The issues raised include: (1) The claimed rate of return on equity, (2) the claimed test period Operations and Maintenance expenses, (3) the wholesale load projections, (4) the use of a 4CP demand allocator, (5) the claimed depreciation rates, (6) the inclusion of unenriched uranium in rate base, (7) classification of all revenue credits as energy related, (8) the claimed cash working capital, (9) the claimed fuel stock, (10) the inclusion of undepreciated investment of the retired Dresden Unit 1 in rate base, (11) alleged improper recovery of spent nuclear fuel disposal costs from prior periods, (12) the appropriate criteria for determining the "in-service" date for the Company's Byron Unit 1, (13) whether the increase in meter rental charges is just and reasonable, and (14) whether all the costs of constructing Byron Unit 1 were prudently incurred and should be included in rate base.

support, the Company disputes many of the allegations raised in the Cities' pleading. The Company concedes, however, that contrary to the terms of a settlement agreement approved in Docket Nos. ER83-437-000, *et al.*, it has allocated to the Cities certain disposal costs for spent nuclear fuel burned prior to April 7, 1983. The Company proposes that the Commission summarily dispose of this error by accepting corrected tariff sheets and supporting cost of service statements [1] attached to its answer in lieu of those originally submitted.

Discussion

Under Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the timely motion to intervene makes the Cities parties to this proceeding.

In view of the Company's concession as to the allocation of nuclear fuel disposal costs to the Cities, we shall summarily dispose of this matter and accept the revised tariff sheets and cost support statements submitted in place of those originally filed by the Company.

The Cities object to the annualization of Byron Unit 1 in the Step 2 cost of service. We note, however, that we have previously allowed similar annualization adjustments were, as in the instant case, the effective date of the proposed rate coincides with the in-service date of the new unit. *See Pacific Gas and Electric Company*, 10 FERC ¶ 61,304 at pp. 61,608-09 (1980); *Southern California Edison Company*, 14 FERC ¶ 61,131 at p. 61,240 (1981).

The Company proposed to defer the effectiveness of the Step 2 rates until the in-service date of the Byron Unit 1. For the Step 2 cost of service, the Company has annualized the effect of placing the Byron Unit 1 in rate base. The Company defines "in-service date" as the date when, under normal practice under the Uniform System of Accounts, it would cease to record AFUDC. The Cities allege that the Company's definition of "in-service date" is inconsistent with utility practice and Commission precedent, which allows plant into rate base only when it becomes dedicated to commercial service. The Cities state that, in prior cases, the Company has attempted to assign an in-service date earlier than the date the plant was fully operational.

We interpret the Company's filing to be structured so that the rate base treatment of Byron Unit 1 and the effectiveness of the rates will coincide with the date the plant becomes available for service in order to avoid the controversies that accompanied its last case where the in-service date of its La Salle nuclear unit slipped substantially. This serves two purposes. The utility does not cease taking AFUDC based on an estimated, uncertain date and the customers' rates do not become effective based on an estimated, uncertain date. The Cities are concerned, however, that because the assignment of an in-service date is under the complete discretion of the utility, the Company could conceivably set a date before the unit was fully operational. The Company has advised the Commission in a letter dated May 14, 1985, that the in-service date for Byron Unit 1 has been set as April 22, 1985. The Company states that April 22, 1985, represents the beginning of a period during which Byron Unit 1 is generating a substantial level of output on a fairly consistent basis. For preliminary suspension purposes, the Commission shall accept the Company's proposed in-service date. Commonwealth shall cease accruing AFUDC as of that date, and we shall suspend the Step 2 rates as of the orginally requested effective date of May 30, 1985. If the Cities believe that Byron Unit 1 performance does not justify rate base treatment as of the Company's selected in-service date, they may pursue this issue at hearing.

Our preliminary examination of the Company's filing and the pleading indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the rates, as modified by summary disposition, for filing and suspend them as ordered below.

In *West Texas Utilities Company*, 18 FERC ¶ 61,189 (1982), we explained that, where our preliminary examination indicates that proposed rates may be unjust and unreasonable, but may not be substantially excessive, as defined in *West Texas*, we would generally impose a nominal suspension. Here, our examination suggests that the Step 1 rates may produce substantially excessive revenues. In contrast, our examination suggests that the Step 2 rates may not yield substantially excessive revenues. We shall therefore deem the Step 1 rates withdrawn and suspend the Step 2 rates, as modified, for one day, to become effective on May 31, 1985, subject to refund.

In accordance with the Commission's policy and practice established in *Arkansas Power and Light Company*, 8 FERC ¶ 61,131 (1979), we shall phase the price squeeze issue raised by the intervenors.

Concerning the Cities' request that an expedited schedule not be established, the Chief Administrative Law Judge has discretion to decide whether an expedited schedule is appropriate.

The Commission orders:

(A) Commonwealth Edison Company's request for summary disposition as to allocation of spent nuclear fuel disposal costs is hereby granted.

(B) Commonwealth Edison Company's proposed rates are hereby accepted for filing as modified by summary disposition. The revised Step 2 rates are suspended, to become effective subject to refund, on May 31, 1985, and the revised Step 1 rates are deemed withdrawn.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of Commonwealth Edison Company's rates.

(D) The Commission staff shall serve top sheets in this proceeding within ten (10) days of the date of this order.

(E) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss), as provided in the Commission's Rules of Practice and Procedure.

(F) The Commission hereby orders initiation of price squeeze procedures and further orders that this proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The presiding judge may modify this schedule for good cause. The price squeeze portion of this case shall be governed by the procedures set forth in § 2.17 of the Commission's regulations as they may be modified prior to the

[1] Specifically, the Company has revised Statements AH, AL, BG, BJ, BK, and BL.

initiation of the price squeeze phase of this proceeding.

(G) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Lois D. Cashell,

Acting Secretary.

COMMONWEALTH EDISON COMPANY RATE SCHEDULE DESIGNATIONS

[Docket No. ER85-404-000]

Sheet No. under FPC electric tariff original volume No. 1	Supersedes	Description
(1) 14th Revised Sheet No. 1.	13th Revised Sheet No. 1.	Rate 78—Step One.
(2) 15th Revised Sheet No. 1.	14th Revised Sheet No. 1.	Rate 78—Step Two.
(3) 2nd Revised Sheet No. 3.	1st Revised Sheet No. 3.	Terms and Conditions.
(4) 5th Revised Sheet No. 7.	4th Revised Sheet No. 7.	Rider 7—Meter Lease.
(5) 2nd Revised Sheet No. 7A.	1st Revised Sheet No. 7A.	Do.
(6) 6th Revised Sheet No. 12.	5th Revised Sheet No. 12.	Rider 20—Fuel Adjustment.

[FR Doc. 85-13267 Filed 6-3-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. Ci85-427-000, etc.]

Diamond Shamrock Exploration Co.; Notice of Petition Under Protest [1] To Amend Certificate and Establish Rate Schedules To Reflect Merger

May 29, 1985.

Take notice that on April 30, 1985, Diamond Shamrock Exploration Company (Diamond Shamrock), of P.O. Box 631, Amarillo, Texas 79173, pursuant to § 154.91, *et seq.*, §§ 157.23, *et seq.*, and 157.40 of the regulations (18 CFR 154.91, *et seq.*; 157.23, *et seq.*; and 157.40 (1984)), requests under protest [1] that the Commission amend the certificate issued to Oleum Incorporated (Oleum) in Docket No. CS72-455 to reflect a merger of Oleum into Diamond Shamrock. Diamond Shamrock also requests that eight rate schedules be established to cover the eight sales under Docket No. CS72-455. Finally, Diamond Shamrock requests that the Commission proceedings in which Oleum was previously a party reflect this name change which are listed and described in Exhibits "A" and "B" attached hereto.

Effective March 11, 1985 Oleum was merged into Diamond Shamrock Exploration Company as evidence by the certificate from the State of Delaware dated April 1, 1985.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 12, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

EXHIBIT A.—LIST OF OLEUM INCORPORATED PROCEEDINGS AND SALES

Proposed Diamond Shamrock Exploration Rate Schedule No.	Date of contract	Purchaser	Location
85 Ci85-427-000	Oct. 28, 1980	Transwestern Pipeline Company	Lipscomb County, Texas.
86 Ci85-428-000	July 1, 1982	Northern Natural Gas Company, a Division of InterNorth, Inc.	Clark County, Kansas.
87 Ci85-429-000	Mar. 28, 1983	Trunkline Gas Company	Vermilion Parish, Louisiana.
88 Ci85-430-000	Oct. 25, 1965	ANR Pipeline Company	Woodward County, Oklahoma.
89 Ci85-431-000	Dec. 18, 1963	ANR Pipeline Company	Ellis County, Oklahoma.
90 Ci85-432-000	Feb. 4, 1963	Panhandle Eastern Pipeline Company	Dewey County, Oklahoma.
91 Ci85-433-000	Sept. 25, 1963	Northern Natural Gas Company, a Division of InterNorth, Inc.	Lipscomb County, Texas.
92 Ci85-434-000	Sept. 26, 1963	Northern Natural Gas Company, A Division of InterNorth, Inc.	Lipscomb County, Texas.

EXHIBIT B.—LIST OF OLEUM INCORPORATED PROCEEDINGS AND SALES

Proposed Diamond Shamrock Exploration Rate Schedule No.	Date of contract	Purchaser	Location
85	Oct. 28, 1980	Transwestern Pipeline Company	Lipscomb County, Texas.
86	July 1, 1982	Northern Natural Gas Company, a Division of InterNorth, Inc.	Clark County, Kansas.
87	Mar. 28, 1983	Trunkline Gas Company	Vermilion Parish, Louisiana.
88	Oct. 25, 1965	ANR Pipeline Company	Woodward County, Oklahoma.
89	Dec. 18, 1963	ANR Pipeline Company	Ellis County, Oklahoma.
90	Feb. 4, 1963	Panhandle Eastern Pipeline Company	Dewey County, Oklahoma.
91	Sept. 25, 1963	Northern Natural Gas Company, a Division of InterNorth, Inc.	Lipscomb County, Texas.
92	Sept. 26, 1963	Northern Natural Gas Company, A Division of InterNorth, Inc.	Lipscomb County, Texas.

[1] This Petition is filed under protest because Diamond Shamrock does not believe that a certificate amendment is necessary to reflect this merger. By "Notice of Applications for Small Producer Certificates" issued July 12, 1979 the Commission acknowledged Oleum's affiliation with Diamond Shamrock Corporation (predecessor to Diamond Shamrock Exploration Company). Pursuant to § 157.40(d), separate certificate applications and individual rate schedules are necessary only for *future* sales. The existing sales remain under the previously issued small producer certificate. Nevertheless, the Commission Staff has indicated this certificate amendment is required. This protest is also filed to ensure Diamond Shamrock's entitlement to refund of the filing fee with respect to this certificate if it is found that this petition is not required.

Other Proceedings Pending

Application for Abandonment Authorization—Docket No. CI85-411-000—Sale to Panhandle Eastern Pipe Line Company; production from Barber County, Kansas.

Application for Abandonment Authorization—Docket No. CI85-399-000—Sale to Tennessee Gas Pipeline Company; production from Austin County, Texas.

Application for Abandonment Authorization—Docket No. CI85-155-000—Sale to United Gas Pipe Line Company; production from Terrebonne Parish, Louisiana.

Petitions for Special Relief—Docket Nos. G-17136, G-18516 and RI60-234.

[FR Doc. 85-13268 Filed 6-3-85; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6120-002]

Frontier Land & Power Corp; Notice of Application for Transfer of Minor License

May 31, 1985.

Public notice is hereby given that an application was filed on April 15, 1985, under the Federal Power Act, 16 U.S.C. 791(a) 825(r), by Frontier Land and Power Corporation, Licensee and Solar Research Corporation, Transferee, for transfer of minor license for the Camp

Creek Project No. 6120. The project is located on Camp Creek in Butte County, California. Correspondence should be directed to Mr. Bruce J. McDowell, Jr., Vice President, Frontier Land and Power Corporation, P.O. Box 131, Taylorsville, CA 95983, Transferor, and Mr. Lee M. Goodwin, Wickwire, Gavin, and Gibbs, P.C., Suite 700, 1819 L Street, NW., Washington, D.C. 20036, Attorneys for Transferee.

Transferee states that it will comply with all applicable laws of the State of California as required by section 9(b) of the Federal Power Act.

Anyone desiring to be heard or to make any protest about this application should file a motion to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 385.211 or 385.214. Comments not in the nature of a protest may also be submitted by conforming to the procedures specified for protests. In determining the appropriate action to take, the Commission will consider all protests or comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party or to participate in any hearings, a person must file a motion to intervene in accordance with the Commission's Rules. Any comments, protests, or motions to intervene must be received on or before July 10, 1985. The Commission's address is: 825 North Capitol Street NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-13269 Filed 6-3-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA85-25-000]

Laurel Fuel Co.; Notice of Petition for Adjustment

Issued: May 30, 1985.

On April 30, 1985, Laurel Fuel Company (Laurel) filed with the Federal Energy Regulatory Commission a petition for adjustment under section 502(c) of the Natural Gas Policy Act of 1978. Commission Orders 399 and 399-A require Laurel, as operator of certain gas producing properties, to refund to Trunkline Gas Company (Trunkline) amounts related to the measurement of the Btu content of natural gas sold by Laurel to Trunkline. Laurel requests relief from making Btu refunds attributable to the working interest of Don Henry Ford. Laurel states that Mr. Ford filed for bankruptcy in 1983, and on August 23, 1984, was discharged of all debts by the United States Bankruptcy Court in the Northern District of Texas. Laurel states that it is unable to obtain the refund amount from Mr. Ford

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure. Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions of such Subpart K. All motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register**.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-13270 Filed 6-3-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI83-257-002]

MGF Oil Corp.; Notice of Application

May 29, 1985.

Take notice that on May 22, 1985, MGF Oil Corporation (Applicant) of P.O. Box 360, Midland, Texas 79702, filed in Docket No. CI83-257-002, an application pursuant to section 7(b) of the Natural Gas Act for an extension from June 30, 1985 until December 31, 1987 of the temporary partial abandonment authority granted it by Order of the Commission dated January 13, 1984 in Docket No. CI83-257-000, all as more fully described in the application which is on file with the Commission and open to public inspection.

Applicant seeks to continue partial abandonment of sales of gas to Panhandle Eastern Pipe Line Company (Panhandle) from certain wells, qualified under Sections 108 and 107(c)(5) of the Natural Gas Policy Act of 1978 (NGPA) in the Wattenberg Field in Adams and Weld Counties, Colorado. Applicant states that it will continue to sell such gas to Natural Gas Associates, a Colorado partnership, which will process the gas and resell the gas residue to Western Gas Supply Company (Westgas) for its system supply. Panhandle will transport the released gas, pursuant to section 311(a)(1) of the NGPA, on behalf of Westgas.

Applicant states that its application will promote the present and future public convenience and necessity by providing Panhandle and its customers with substantial take-or-pay relief and also because Panhandle will be relieved from the obligation to purchase gas that it does not need and that is priced higher than Panhandle's weighted average cost of gas. Applicant also states that continuation of the sale of the released gas to Natural Gas Associates will provide applicant with an assured cash flow that is essential to its economic viability.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 12, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-13271 Filed 6-3-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ID-2006-002, etc.]

Arthur A. Hatch et. al.; Interlocking Directorate Applications

May 29, 1985.

Take notice that the following filings have been made with the Commission.

1. Arthur A. Hatch

[Docket No. ID-2006-002]

Take notice that on May 6, 1985, Arthur A. Hatch (applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following position: Director; Blackstone Valley Electric Company.

Comment date: June 12, 1985, in accordance with Standard Paragraph E at the end of this notice.

2. Preston L. Smith

[Docket No. ID-2172-000]

Take notice that on May 6, 1985, Preston L. Smith (applicant) filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Director; Vermont Electric Power Company

Director; Central Vermont Public Service Corporation

Comment date: June 12, 1985, in accordance with Standard Paragraph E at the end of this notice.

3. A. Wayne Cole

[Docket No. ID-2176-000]

Take notice that on May 15, 1985, A. Wayne Cole (applicant) filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions.

Director; Ohio Valley Electric Corporation
President and Director; Pennsylvania Power Company

Comment date: June 12, 1985, in accordance with Standard Paragraph E at the end of this notice.

4. George C. Palmer, II

[Docket No. ID-2168-000]

Take notice that on April 30, 1985, George C. Palmer, II (applicant) filed an application under section 305(b) of the Federal Power Act to hold the following positions:

Director; Virginia Electric and Power Company
Director; Sovran Financial Corporation
Director; Sovran Bank, N.A.

Comment date: June 12, 1985, in accordance with Standard Paragraph E at the end of this notice.

5. Robert P. Bliss

[Docket No. ID-2175-000]

Take notice that on May 10, 1985, Robert P. Bliss (applicant) filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Director; Vermont Electric Power Company, Inc.
Director; Central Vermont Public Service Corporation

Comment date: June 12, 1985, in accordance with Standard Paragraph E at the end of this notice.

6. Robert J. Harrison

[Docket No. ID-2173-000]

Take notice that on April 30, 1985, Robert J. Harrison (applicant) filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

President, Chief Executive Officer; Public Service Company of New Hampshire
Director; Maine Yankee Atomic Power Company
Director; Vermont Yankee Nuclear Power Corporation
Director; Yankee Atomic Electric Company

Comment date: June 12, 1985, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestant parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-13260 Filed 6-3-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. QF85-486-000, et al.]

Hydro Energies Corp. et al.; Certificate Applications for Qualifying Status as Small Power Production and Cogeneration Facilities

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

Take notice that the following filings have been made with the Commission.

1. Hydro Energies Corp.

[Docket No. QF85-486-000]

May 28, 1985.

On May 6, 1985, Hydro Energies Corporation (Applicant), of P.O. Box 991, Bonnett Street, Manchester Center, Vermont 05255, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility is located at the Dewey's Mills Dam in the Town of Hartford, Windsor County, Vermont. The facility consists, in part, of an existing concrete and masonry dam 375 feet long with appurtenant 45 acre reservoir, owned by the Army Corps of Engineers, two new steel penstocks, and a new concrete power house containing two turbine/generators. Electricity produced by the facility will be sold to the Vermont Power Exchange Inc. The interconnecting utility is Central Vermont Public Service Corporation. The primary energy source to be used by the facility is water. The power production capacity of the facility is 2400 kilowatts.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

2. Turbodyne Electric Power Corporation

[Docket No. QF85-495-000]

May 28, 1985.

On May 14, 1985, Turbodyne Electric Power Corporation (Applicant) of 37 Coats Street, Wellsville, New York 14895, submitted for filing an application for certication of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The proposed small power production facility will be located in Lake Butler, Florida on Route 231A approximately one mile northeast of the intersection of State Routes 100 and 231 A. The facility will consist, in part, of a steam turbine/generator, a wood stoker fired boiler and a mechanical draft tower. The net electric power production capacity of the facility is 13,600 kilowatts. The primary source of energy will be wood in the form of chips and wood by-product from industrial processes.

3. Getty Synthetic Fuels, Inc.

[Docket No. QF85-489-000]

May 28, 1985.

On May 6, 1985, Getty Synthetic Fuels, Inc. (Applicant), of 2750 Signal Parkway, Signal Hills, California 90806 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility will be located at Monterey Park Los Angeles County, California. The electric power

production capacity will be 6,500 kilowatts. The primary energy source will be biomass in the form of landfill gas, which is provided to the facility from wells and collection pipelines in the landfill. The facility does not require the use of natural gas, oil or coal.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-13259 Filed 6-3-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI85-467-000]

Park-Ohio Energy, Inc.; Notice of Application for Blanket Limited Term Certificate and Limited Partial Abandonment Authorization

May 29, 1985.

Take notice that on May 22, 1985 Park-Ohio Energy, Inc. ("Park-Ohio") 20600 Chagrin Boulevard, 600 Tower East, Cleveland, Ohio 44122, filed an application pursuant to Sections 4 and 7 of the Natural Gas Act, 15 U.S.C. Sections 717c, 717f, and provisions of 18 CFR Part 157, for a blanket limited-term certificate of public convenience and necessity authorizing Park-Ohio to conduct a short-term spot sales marketing program, hereinafter referred to as the "SPARK" Program, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Approval would (1) authorize the sale of natural gas for resale in interstate commerce; (2) permit limited-term, partial abandonment of certain natural gas sales; (3) confer pre-granted abandonment authorization for sales of natural gas made pursuant to the requested certificate; (4) authorize transportation of natural gas by interstate pipeline companies able and willing to participate in the SPARK Program; and (5) confer pregranted abandonment authorization for the transportation service allowed under the requested certificate. Park-Ohio also requests the Commission to declare that, with respect to Park-Ohio and its activities, the Commission will only assert Natural Gas Act jurisdiction over sales for resale and transportation not otherwise exempt from the NGA.

Under the SPARK Program, Park-Ohio proposes to sell natural gas qualifying for the Section 102, 103, 107 or 108 rates under the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. Sections 3301-3432. Only contractually committed gas will be sold. Park-Ohio and participating producers will seek temporary releases of gas from the purchasers in order to meet market demand for natural gas sales. Releasing purchasers will be absolved from take-or-pay liability for any volumes of gas released and sold under the program. Arrangements for transporting the released gas will be made on a case-by-case basis.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 13, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless Applicant is otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-13272 Filed 6-3-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA85-31-000]

Phillips and Spradley; Notice of Petition for Adjustment

Issued May 30, 1985.

On May 7, 1985, Phillips and Spradley, a partnership, filed with the Federal Energy Regulatory Commission a petition for adjustment under section 502(c) of the Natural Gas Policy Act of 1978. Phillips and Spradley seeks an additional 45 days from May 3, 1985, until June 17, 1985, to make Btu overcharge refunds required by Commission Orders 399 and 399-A. The firm contends that it needs this additional time to review its sales records in order to determine the amount of refunds due to its purchaser, Esperanza Transmission Company.

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure. Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions of such Subpart K. All motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register.**

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-13273 Filed 6-3-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE85-4-000]

South Carolina Public Service Authority; Notice of Application for Exemption

May 30, 1985.

Take notice that South Carolina Public Service Authority (SCPSA) filed an application on May 8, 1985 for exemption from certain requirements of Part 290 of the Federal Energy Regulatory Commission's (FERC) regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file on or prior to June 30, 1986 and biennially thereafter, information on the costs of providing electric service as specified in Subparts B, C, D and E or Part 290.

In its application for exemption SCPSA states, in part, that it should not be required to file the specified data for the following reasons:

- The information is not used by Santee Cooper.
- The information is available in other reports filed with the government.
- Manpower and financial resources could be better utilized in performing other tasks more beneficial to our rate payer.

Copies of the application for exemption are on file with FERC and are available for public inspection. FERC's regulations require that said utility also apply to any state regulatory authority having jurisdiction over it to have the application published in any official state publication in which electric rate

change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before 45 days following the date this notice is published in the **Federal Register**. Within that 45 day period, such person must also serve a copy of such comments on: Mr. Kenneth R. Ford, South Carolina Public Service Authority, One Riverside Drive, Moncks Corner, South Carolina 29461-0398.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-13274 Filed 6-3-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-4268-000, et al.]

Tenneco Oil Company et al.; Notice of Applications for Certificates, Abandonments of Service and Petitions to Amend Certificates[1]

May 29, 1985.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 12, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
G-4268-000, F, May 17, 1985	Tenneco Oil company (Successor in interest to sun exploration and Production Co.) P.O. Box 2511, Houston, TX 77001.	Colorado Interstate Gas Co., Beach Gas Unit, Hugoton Field, Finney County, KS.	(1)	14.73
G-17361-002, D, May 22, 1985	Kerr-McGee Corp., P.O. Box 25861, Oklahoma City, OK. 73125.	Transcontinental Gas Pipe Line Corp., Ship Shoal Block 33 Platform B, Offshore Louisiana.	(2)	
CI61-323-002, D, May 17, 1985	Union Oil Co. of California, Union Oil Center, Box 7600, Los Angeles, CA 90051.	Transwestern Pipeline Co., Como Area, Beaver County, OK.	(3)	
CI61-1395-000, F, May 17, 1985	Tenneco Oil Co. (Successor in interest to Sun Exploration and Production Co.).	Northwest Central Pipeline Corp., Bittiker Unit, Hugoton Field, Finney County, KS.	(1)	14.73
CI62-47-001, D, Oct. 24, 1984	Gulf Oil Corp., P.O. Box 2100, Houston, TX	Colorado Interstate Gas Co., Patrick Draw Field, Sweetwater County, WY.	(4)	
CI66-172-000, D, May 13, 1985	Pioneer Exploration Co., (Previously Sun Oil Co.) P.O. Box 1307, Wichita, KS 67201.	Texas Gas Transmission Corp., Maurice Field, Lafayette and Vermilion Parishes, LA.	(5)	
CI73-685-000, and CI73-686-001, May 20, 1985.	Shell Western E&P Inc. (Successor in interest to Shell Oil Company) P.O. Box 4684, Houston, TX 77210.	ANR Pipeline Co., Mocan-Laverne Field, Beaver County OK.	(6)	14.73
CI80-245-001, D, May 3, 1985	Sohio Petroleum Co., P.O. Box 4587, Houston, TX 77210.	Panhandle Eastern Pipeline Co., Longbranch Field, Adams County, CO.	(7)	
CI85-413-000, F, Apr. 29, 1985	TXO Production Corp. (Successor in interest to SPG Exploration Corp.) First City Center, LB 10, 1700 Pacific Avenue, Dallas, TX 75201-4696.	Tennessee Gas Transmission Co., Chatham Field, Jackson Parish, LA.	(8)	14.73
CI85-414-000, B, Apr. 29, 1985	Oil Producers, Inc. of Kansas, P.O. Box 8647, Wichita, KS 67208.	Panhandle Eastern Pipeline Co., SE NE NW sec. 23-27s-18W N. Greensburg Field, Kiowa County, KS.	(9)	
CI85-418-000 (G-18016), B, Apr. 29, 1985.	Shell Western E&P Inc.	Cimarron Transmission Co., S.W. Enville Field, Love County, OK.	(10)	
CI85-419-000, B, Apr. 26, 1985	Bison Petroleum Corp., 203 S. 8th—Suite 510, Amarillo, TX 79101.	Phillips Petroleum Co., S. Lucky Lake Field, Chaves County, NM (Owen Federal No. 2 well).	(11)	
CI85-421-000, A, May 14, 1985	Chevron U.S.A. Inc., P.O. Box 7309, San Francisco, CA 94120-7309.	Natural Gas Pipeline Co. of America South Marsh Island Block 268, Offshore Louisiana.	(12)	14.73
CI85-422-000, (CI66-172) B, May 13, 1985.	Pioneer Exploration Co. (Previously Sun Oil Co.) P.O. Box 1307, Wichita, KS 67201.	Texas Gas Transmission Corp., Maurice Field, Lafayette and Vermilion Parishes, LA.	(5)	
CI85-423-000, B, Apr. 29, 1985	Conoco Inc., P.O. Box 2197, Houston, TX 77252	Phillips Petroleum Co., Jordan-Penwell Field, Ector County TX.	(13)	
CI85-425-000, F, Apr. 30, 1985	TXO Production Corp. (Successor in interest to SPG Exploration Corp.) First City Center, LB 10, 1700 Pacific Avenue, Dallas, TX 75201-4696.	Valley Gas Tranmission, Inc., Chatham Field, Jackson Parish, LA.	(8)	14.73
CI85-426-000, F, Apr. 30, 1985	TXO Production Corp. (Successor in interest to Merrion Oil and Gas Corp., RLB Enterprises Inc., and Texaco Inc.).	Northwest Pipeline Corp., Book Cliffs Field, Grand County, UT.	(14)	14.73
CI85-458-000, B, May 16, 1985	Piper Petroleum Company, *et al.*, 2100 First City Natl. Bank Bldg., Houston, TX 77002.	Transcontinental Gas Pipe Line Corp., South Crowley Field, Acadia Parish, LA.	(15)	
CI85-459-000, B, May 15, 1985	ARCO Oil and Gas Co., Division of Atlantic Richfield Co., P.O. Box 2819, Dallas, TX 75221	The Neuveces Company (Delhi) Twofreds Field, Loving County, TX.	(16)	
CI85-460-000, (G-2612) B, May 15, 1985.	Phillips Petroleum Co. 336 HS&L Bldg., Bartlesville, OK 74004.	Arkansas Louisiana Gas Co., Longwood Field, Casso Parish, LA.	(17)	
CI85-461-000 (CI71-443) B, May 16, 1985.	Tenneco Oil Co., P.O. Box 2511, Houston, TX 77001	Montana-Dakota Utilities, Slick Creek Unit Field, Washakie County, WY.	(18)	
CI85-462-000, B, May 20, 1985	Northern Oil & Gas, Inc., Box 5090, Borger, TX 79007	Panhandle Eastern Pipeline Co., Panhandle Field, Carson County, TX.	(19)	
CI85-463-000, b, May 20, 1985	Tomlinson Oil Co., Inc	Northern Natural Gas Co., Division of InterNorth, Inc., Dowdy Lease, Wide Awake Field, Seward County, KS.	(20)	

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI85-464-000, B, May 20, 1985	Conoco Inc	Getty Oil Co., E/2 NE/4 Sec. 4, Block 32, T3N, T&P, RR Co, Survey, Borden County, TX.	(²¹)	
CI85-465-000 (CI64-875) B, May 20, 1985	Sun Exploration and Production Co., P.O. Box 2880, Dallas, TX 75221-2880.	Arkansas-Louisiana Gas Co., North Enid Area, Garfield County, OK.	(²²)	

¹ Tenneco Oil company is acquiring this property as of December 1, 1983 and requests its permanent certificate of public convenience and necessity be effective as of that date.
² All deliveries from Platform "B" have ceased and the functions of the platform have been assumed by the Platforms C-1 and C-2.
³ No longer economically feasible to maintain compression facilities. Low pressure line of an alternate buyer is available.
⁴ Assignment executed by Gulf Oil Corportion on December 31, 1969, assignes and tranfers all of its leasehold estate rights in certain acreage to Colorado Interstate Gas Company.
⁵ Uneconomical.
⁶ Effective as of January 1, 1984, Shell Oil Company assigned to SWEPI, *inter alia*, the leases covered by the certificates issued to Shell at Docket Nos. CI73-685 and CI73-686.
⁷ The leases in the Longbranch Field subject to Rate Schedule No. 173 have been plugged and abandoned.
⁸ By an Assignment effective April 1, 1984, Applicant acquired from SPG Exploration Corp. certain property.
⁹ Lack of sufficient production to maintain economical operation.
¹⁰ All leases have been assigned to Maynard Oil Company, which intends to continue service.
¹¹ The Owen Federal No. 2 is an oil well. Bison needs to vent the gas in order to relieve the back pressure on the well and maintain the oil production rate above the economic limit. Otherwise oil reserves will be lost.
¹² Applicant is filing under Gas Purchase Contract dated March 27, 1985.
¹³ Non-production and the contract has passed the primary term.
¹⁴ By an Assignment effective May 7, 1982 Applicant acquired from Marrion Oil and Gas Corporation and RLB Enterprises, Inc., interest in certain property. By an Assignment effective September 1, 1983, Applicant acquired from Texaco, Inc. interest in that same property.
¹⁵ Jeffers #1 well was plugged and abandoned and no further production is planned.
¹⁶ Casinghead Gas Purchase Contract dated May 21, 1962 expired on its own terms on January 1, 1980. No sales have been made under this contrct since 1971, and no further sales are anticipated.
¹⁷ The contract has expired and the only remaining lease qualifies for the NGPA Section 102 rate and has been released by the purchaser.
¹⁸ No sales have transpired since November 15, 1971. All sweet gas is being used on lease; no future sales are anticipated.
¹⁹ The present purchaser, Panhandle Eastern no longer wishes to purchase the gas.
²⁰ This well is unable to deliver gas into NNG collection line since well pressure is less than collection line pressure. Northern Natural Gas Company agreed to terminate contract dated August 25, 1975 as of May 1, 1985.
²¹ Gas contract was cancelled effective January 1, 1982 due to depletion of reserves.
²² Release of property from Arkla Energy Resources.
Filing Code: A—Initial Service, B—Abandonment, C—Amendment to add acreage, D—Amendment to delete acreage, E—Total Succession, F—Partial Succession.

[FR Doc. 85-13275 Filed 6-3-85; 8:45 am]
BILLING CODE 6717-01-M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding $228,335.71 and $546.00 in consent order funds to members of the public. This money is being held in escrow following the settlement of two enforcement proceedings involving St. James Resources Corporation and Kingston Oil Supply, both reseller-retailers of petroleum products. St. James is located in Boston, Massachusetts; Kingston Oil Supply is in Port Ewen, New York.

DATE AND ADDRESS: Comments must be filed within 30 days of publication of this notice in the **Federal Register** and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585. All comments should conspicuously display a reference to case numbers HEF-0100, HEF-0109.

FOR FURTHER INFORMATION CONTACT: Amy Resner, Office of Hearings and Appeals, 1000 Independence Avenue SW., Washington, D.C. 20585, [202] 252-6602.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision relates to two consent orders entered into by the St. James Resources Corporation (St. James) and Kingston Oil Supply (Kingston). The St. James consent order settled possible pricing violations in the firm's sales of No. 2 heating oil to customers during the period May 1, 1974 through June 30, 1976; the Kingston consent order settled alleged pricing violations in the firm's sale of No. 4 residual fuel oil to its customers during the period of November 1, 1973 through December 31, 1974.

The Proposed Decision sets forth the procedures and standards that the DOE has tentatively formulated to distribute the contents of two escrow accounts funded by St. James and Kingston pursuant to the respective consent orders. In the case of St. James, the DOE has tentatively decided that the consent order funds should be distributed in two stages. In the first stage, OHA proposes that a portion of the consent order fund should be distributed to 78 first purchasers after each has filed an application for refund. The purchasers in this case were identified by a DOE audit and were allotted funds based on presumptions of injury which the DOE has utilized in past proceedings. However, applications for refund will also be accepted from purchasers not identified by the DOE audit. In the event that money remains in the St. James escrow account after all first-stage claims have been disposed of, the DOE will determine an alternative plan for distributing these funds. The DOE has also tentatively determined that the $546 in the Kingston consent order fund be reserved for distribution in a second stage proceeding. Although the audit in this case identified the purchaser entitled to receive these funds, the DOE has been unable to locate the customer and will accept information as to its location for 90 days following the issuance of a Final Decision and Order in this case. Applications for Refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice in the **Federal Register**, and should be sent to the address set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection between the hours of 1:00 to 5:00 p.m., Monday through Friday, except federal holidays, in the Public Docket Room of the Office of Hearings and Appeals, located in Room 1E-234, 1000 Independence Avenue SW., Washington, D.C. 20585.

Dated: May 16, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

May 16, 1985.

Proposed Decision and Order of the Department of Energy

Special Refund Procedures

Names of Firms: St. James Resources Corporation Kingston Oil Supply.

Date of Filing: October 13, 1983.

Case Numbers: HEF-0100 and HEF-0109.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to distribute funds received as a result of enforcement proceedings in order to remedy the effects of alleged or actual violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where DOE is unable to readily identify those persons who likely were injured by alleged overcharges or to readily ascertain the extent of such persons' injuries. For a more detailed discussion of Subpart V, *see Office of Enforcement*, 9 DOE ¶ 82,508 (1982), *and Office of Enforcement*, 8 DOE ¶ 82,597 (1981).

I. Background

In accordance with the provisions of Subpart V, on October 13, 1983, ERA filed a Petition for the Impelementation of Special Refund Proceedings in connection with the consent orders which it entered with St. James Resources Corp. (St. James) and Kingston Oil Supply (Kingston). Each of these firms is a "reseller" of "covered products" as those terms were defined in 10 CFR 212.1. St. James's main office is in Boston, Massachusetts; Kingston is located in Port Ewen, New York. DOE audit of each firm's records revealed possible violations of the Mandatory Petroleum Price Regulations. 10 CFR Part 212, Subpart F. Subsequently, each firm entered into a consent order, with DOE. Each consent order refers to ERA's allegations of overcharges, but notes that no findings of violations were made. Additionally, each consent order states that the consent order firm does not admit that it committed any such violations. A brief discussion of other pertinent matters covered by each consent order follows.

The St. James consent orders covers the period May 1, 1974 through June 30, 1976. The DOE audits alleges that during that period, the firm committed possible pricing violations amounting to $228,335.71 with respect to its sales of No. 2 heating oil. In order to settle all claims and disputes between St. James and DOE regarding the firm's sales of No. 2 heating oil during the audit period, St. James and the DOE entered into the consent order on March 20, 1980. According to the St. James consent order, the firm agreed to deposit $228,335.71, including interest, into an interest-bearing escrow account for ultimate distribution by DOE. The consent order funds were paid in full on March 20, 1980.

In the Kingston case, the DOE audit revealed possible pricing violations with respect to sales of No. 4 residual fuel oil during the November 1, 1973 through December 31, 1974 audit period. In order to settle all claims and disputes between Kingston and DOE regarding these sales, Kingston and the DOE entered into the consent order on August 7, 1981, in which the firm agreed to make refunds amounting to $78,000 (including interest). Since the audit in this case identified the allegedly overcharged end-user purchasers, Kingston made direct refunds to its customers. One customer, however, could not be located. Therefore, Kingston placed this purchaser's refund of $546.00 in an interest-bearing escrow account for ultimate distribution by DOE.

This Decision concerns the distribution of the consent order funds that were deposited in both the St. James and Kingston escrow accounts, plus accrued interest to date.

II. Proposed Refund Procedures

The purpose of a special refund proceeding is to make restitution for injuries which were probably suffered as a result of alleged or actual violations of the DOE regulations. 10 CFR Part 205, Subpart V. In order to effect restitution in this proceeding, we have determined to rely in part on the information contained in the ERA audit files. This approach is warranted based upon our experience in prior Subpart V cases where all or most of the purchasers of a firm's products are identified in the audit file. *See, e.g., Marion Corp.*, 12 DOE ¶ 85,014 (1984) (*Marion*). Under these circumstances, a more precise determination with respect to the identity of the allegedly overcharged parties is possible.

A. Refunds to Identified Purchasers

During the DOE's audit of St. James, 78 first purchasers were identified by ERA as having allegedly been overcharged. In the case of the Kingston audit, the alleged overcharges under discussion in this decision were attributable to purchases made by a single firm. We know that the DOE audit files do not necessarily provide conclusive evidence as to the identity of all possible refund recipients or the refund that may be appropriate. However, the information contained in the audit files may reasonably be used for guidance. *See Armstrong & Associates/City of San Antonio*, 10 DOE ¶ 85,050 at 88,259 (1983). In *Marion*, we stated that "the information contained in the . . . audit file can be used for guidance in fashioning a refund plan which is likely to correspond more closely to the injuries probably experienced than would a distribution plan based solely on a volumetric approach." 12 DOE at 88,031. In previous cases of this type, we have proposed that the funds in the escrow account be apportioned either among the customers identified by the audit, or to their downstream purchasers. *See, e.g., Bob's Oil Co.*, 12 DOE ¶ 85,024 (1984); *Brown Oil Co.*, 12 DOE ¶ 85,028 (1984); *and Reinhard Distributors, Inc.*, 12 DOE ¶ 85,137 (1984). The first purchasers identified by the audits, along with the respective shares of the settlement amount allotted to each by ERA, are listed in Appendices A and B.

Identification of first purchasers is only the initial step in the distribution process. We must also determine whether these first purchasers were actually injured, or whether any or part of the alleged overcharges were passed on. In addition to the information in the record at this time, we propose to adopt certain presumptions in order to determine a purchaser's level of injury and thereby distribute the escrow accounts in these cases. Presumptions in refund cases are specifically authorized by applicable DOE procedural regulations. Section 205.282(e) of those regulations states that:

> [i]n establishing standards and procedures for implementing refund distributions, the Office of Hearings and Appeals shall take into account the desirability of distributing the refunds in an efficient, effective and equitable manner and resovling to the maximum extent practicable all outstanding claims. In order to do so, the standards for evaluation of individual claims may be based upon appropriate presumption.

10 CFR 205.282(e). The presumptions were propose to adopt in this case are used to permit claimants to participate in the refund process without disproportionate expense, and to enable OHA to consider the refund applications in the most efficient way possible in view of the limited resources available. Therefore, as in previous special refund procedures, in these cases we propose to adopt a presumption of injury with respect to small claims.

There are a variety of reasons for adopting this presumption. *See, e.g., Ubon Oil Co.*, 9 DOE ¶ 82,541 (1982), as we have noted in many previous refund decisions, there may be considerable expense involved in gathering the types of data needed to support a detailed claim of injury. In order to prove such a claim, an applicant must compile and submit detailed factual information regarding the impact of alleged overcharges which took place many years ago. This procedure certainly can be time-consuming and expensive. In the case of small claims, the cost to the firm of gathering this factual information, and the cost of OHA of analyzing it, may exceed the expected refund amount. Failure to adopt simplified application procedures for small claims could therefore operate to deprive injured parties of the opportunity to obtain a refund. The use of presumptions is also desirable from an administrative standpoint, because it allows OHA to process a large number of routine refund claims quickly, and to use its limited resources more efficiently. Finally, these smaller claimants did purchase covered products from St. James and Kingston and were in the chain of distribution where the alleged overcharges occurred. Therefore, they were affected by the alleged overcharges, at least initially. The presumption eliminates the need for a claimant to submit, and the OHA to analyze, detailed proof of what happened downstream of that initial impact.

Under the small claim presumption which we propose to adopt, a claimant who is a reseller or retailer would not be required to submit any additional evidence of injury beyond purchase volumes if its refund claim is based on purchases below a threshold level. Other refund decisions have expressed the threshold either in terms of purchase volumes or dollar amounts. However, in *Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984), we noted that describing the threshold in terms of a dollar amount rather than a purchase volume figure would more readily facilitate disbursements to applicants seeking relatively small refunds. *Id.* at 88,210. This case merits the same approach. Several factors determine the value of the threshold below which a claimant is not required to submit any further evidence of injury beyond volumes purchased. One of these factors is the concern that the cost to the applicant and the government of compiling and analyzing information sufficient to show injury not exceed the amount of the refund to be gained. In these cases, where the consent order fund is small, the refund amount is fairly low, and the time period of the consent order is many years past, establishing a threshold of $5,000 would be reasonable. *See Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984); *Office of Special Counsel: In the Matter of Conoco, Inc.*, 11 DOE ¶ 85,226 (1984), and cases cited therein. After analysis of the information in the record, it appears that 73 of St. James' customers listed on Appendix A and the one Kingston customer listed on Appendix B, made small purchases of the respective firms' products. The refunds authorized for five St. James customers, however, are larger than the amount which a firm may be entitled to receive under the small claims presumption we have proposed.

On the basis of the considerations discussed above, we propose to distribute a portion of the escrow funds to the first purchasers listed in Appendix A in the amounts specified, plus accrued interest to date. The share of the escrow fund which the listed purchasers in Appendix A may receive represents 100% of the amount each was allegedly overcharged, and is consistent with the terms of the St. James consent order, which settled for 100% of the total amount of alleged overcharges identified by the audit. In order to actually receive a refund each customer will still be required to file an application for refund. (*See* discussion *infra*).

However, since the refunds allotted to five of St. James' reseller customers are larger than $5,000—and therefore larger than a "small claim"—we will require each of these firms to make a specific demonstration of injury prior to receiving the full refund allotted to it in Appendix A.[1] As in previous special refund cases, we will ask these firms to show that they did not pass the effects of St. James' alleged regulatory violations through to their own customers. *See, e.g., Office of Enforcement*, 8 DOE ¶ 82,597 (1981). While there are a variety of means by which they could make this showing, these firms should generally demonstrate that at the time they purchased St. James products, market conditions would not permit them to pass the alleged overcharges on to their own customers in the form of higher prices. In addition, the firms must show that they maintained a "bank" of unrecovered costs in order to demonstrate that they did not subsequently recover these costs by increasing their prices. The maintenance of a bank will not, however, automatically establish injury. *See Tenneco Oil Co./Chevron U.S.A. Inc.*, 10 DOE ¶ 85,014 (1982); Vickers Energy Corp./Standard Oil Co., 10 DOE ¶ 85,036 (1982); *Vickers Energy Corp./Koch Industries, Inc.*, 10 DOE ¶ 85,038 (1982).

In addition, we have no other information regarding the identify or location of the last 13 purchasers listed in Appendix A and are unable to distribute refunds to them. However, we will contact St. James and publish notice of this Proposed Decision and Order in the **Federal Register**, in an effort to reach these purchasers. We will accept information regarding the identify and present locations of these purchasers for a period of 90 days following publication in the **Federal Register** of notice of a final Decision and Order in this proceeding.

We are also unable, based on the information available to us, to distribute the Kingston consent order funds to the purchaser listed on Appendix B. According to our records, this customer, Rubin's Hotel, was sold, and Mr. David Rubin, the owner at the time of the alleged violation, left no forwarding address.[2] OHA has not succeeded in locating Mr. Rubin. Under these circumstances and because most of the Kingston consent order fund has already been distributed to first purchasers (*see* discussion *supra*), we propose to conclude the first stage in the Kingston proceeding and reserve Mr. Rubin's refund for distribution in a second stage proceeding.

B. Refunds to Other Purchasers

As discussed, this Decision concerns the distribution of $228,335.71 that St. James deposited into the escrow account, plus accrued interest to date. Since the refunds tentatively allotted to identified purchasers total only $117,023.88, the remaining portion of the St. James consent order funds may be distributed among purchasers other than those identified by the ERA audit, and repurchasers, who may have been injured by the alleged overcharges. To assist other potential claimants in deciding whether to apply for a refund, we propose to utilize the small claim presumption discussed above and, in addition, to adopt a presumption that the alleged overcharges were dispersed equally in all sales of products made by St. James during the consent order period. OHA has referred to this

[1] These five firms are: Decker & Simmons; Emerson Coal & Oil Company; Ingle & Son; Atlantic Coal & Oil Company; Avon Coal & Oil Inc.

[2] *See* copy of August 18, 1981 letter which Mr. Arthur P. Motckin, President of Kingston Oil Supply Corp. sent to Mr. Samuel Borenkind, Esq., Counsel for Kingston.

presumption in the past as a volumetric refund amount. In the absence of better information, this assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices. However, we also recognize that the impact on an individual purchaser could have been greater, and any purchaser is allowed to file a refund application based on a claim that the impact of the alleged overcharge on it was greater than the pro rata amount determined by the volumetric presumption. *See e.g., Sid Richardson Carbon & Gasoline Co. and Richardson Products Co./Siouxland Propane Co.*, 12 DOE ¶ 85,054 (1984) and cases cited therein at 88,164.

Using a volumetric approach in this proceeding means that a portion of the St. James consent order amount would be allocated to each gallon of product which a successful claimant purchased from St. James. The average per gallon refund, or volumetric refund amount, in this proceeding is $0.005828 per gallon.[3] Potential applicants that were not identified by the ERA audit of St. James may use this volumetric figure to estimate the refund to which they may be entitled. Previous experience with Subpart V proceedings indicates that to the extent such other purchasers come forward as first-stage refund claimants, they would be either resellers (including retailers) or end-users. As we stated above, in order to qualify for a refund, resellers generally would be required to establish that they absorbed the alleged overcharges. However, those reseller claimants applying for a refund under $5,000 will not be required to demonstrate injury. *See* discussion, *supra*.

In addition to the presumptions we are adopting, we are making a finding that end-users or ultimate consumers whose business is unrelated to the petroleum industry were injured by the alleged overcharges settled in the consent order. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period, and they were not required to keep records which justified selling price increases by reference to cost increases. For these reasons, an analysis of the impact of the alleged overcharges on the final prices of non-petroleum goods and services would be beyond the scope of a special refund proceeding. *See Office of Enforcement, Economic Regulatory Administration: In the Matter of PVM Oil Associates, Inc.*, 10 DOE ¶ 85,072 (1983); *see also Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984) and cases cited therein. We have concluded that end-users of St. James petroleum products need only document their purchase volumes from St. James to make a sufficient showing that they were injured by the alleged overcharges. If additional meritorious claims are filed, we will adjust the figures listed in the Appendix accordingly. Actual refunds will be determined only after analyzing all appropriate claims.[4]

Finally, we propose to establish a minimum amount of $15 for refund claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than $15 outweighs the modest benefits of restitution in those situations. *See, e.g. Uban, supra* at 85,225. *See also* 10 CFR 205.286(b).

In order to receive a refund, each claimant will be required either to submit a scheduled of its monthly purchases of No. 2 heating oil from St. James, or to submit a statement verifying that it purchases heating oil from St. James and is willing to rely on the data in the audit file. Claimaints must indicate, as well, whether they have previously received a refund, from any source, with respect to the alleged overcharges identified in the ERA audit underlying the St. James proceeding. Purchasers not identified by the ERR audit will be required to provide specific information concerning the date, place, and volume of product purchases, the name of the firm from which the purchase was made, and the extent of any injury alleged. Each applicant must also state whether there has been a change in ownership of the firm since the audit period. If there has been a change in ownership, the applicant must provide the names and addresses of the other owners, and should either state the reasons why the refund should be paid to the applicant rather than the other owners or provide a signed statement from the other owners indicating that they do not claim a refund.

III. Distribution of the Remainder of the Consent Order Funds

In the event that money remains after all meritorious claims have been disposed of, undistributed funds could be distributed in a number of ways in a subsequent proceeding. However, we will not be in a position to decide what should be done with any remaining funds until the initial stage refund procedure is completed. We encourage the submission by interested parties of proposals which address alternative method of distributing any remaining funds.

It Is Therefore Ordered That:

(1) The refund amount remitted to the Department of Energy by St. James Resources Corporation, pursuant to the consent order executed on March 20, 1980, will be distributed in accordance with the foregoing decision.

(2) The refund amount remitted to the Department of Energy by Kingston Oil Supply, pursuant to the consent order executed on August 7, 1981 will be reserved for distribution in a second stage proceeding, in accordance with the foregoing decision.

APPENDIX A.—ST. JAMES RESOURCES CORPORATION

First purchasers	Portion of settlement amount[1]
Aggregate, Post Office Box 161, Palmerton, PA 18071	$753.97
Atlantic Coal & Oil Company, 77 Pilsudski Street, Providence, RI 02909	10,020.57
Atlas Oil Corporation, 55 Allied Drive, Post Office Box 470, Dedham, MA 02026	2,752.98
Avon Coal & Oil, Inc., 175 Main Street, Avon, MA 02322	11,470.78
B & M Fuel Company, Iron Horse Park, North Billerica, MA 01862	201.14
Beaver Coal & Oil Company, 200 Broadway, Norwood, MA 02062	959.45
Bilman, 222 North 2nd Street, Catawissa, PA 17820	145.88
Blackstone Fuel, 112 Magill, Pawtucket, RI 02860	76.52
Boyd Oil, Main Street, Contoocook, NH 03229	163.57
C.J. Thibodeaux, 940 Esperson Building, Houston, TX 77002	519.61
Cleghorn Oil, 25 Pratt Street, Post Office Box 913, Fitchburg, MA 01420	2,555.50
Co-op, Inc., 38 North Street, Natick, MA 01760	1,283.02
Curtis Oil Company, Inc., 431 Pine Way, East Weymouth, MA 02189	250.27
Decker & Simmons, 37 Hamburg Avenue, Sussex, NJ 07461	6,431.57
Dennis K. Burke, Inc., 410 Beacham Street, Chelsea, MA 02150	684.91
Eichlin, Walter's Oil, Inc., 1000 Bushhill Drive, Easton, PA 18042	279.61
Elman Fuel Company, 171 Walnut Street, Hartford, CT 06101	3,951.79
Emerson Coal & Oil Company, 572 East Street, Post Office Box 117, East Weymouth, MA 02189	9,218.80
Fields, Route 2, Box 37, Easton, PA 18042	3,140.57
Gibbs Oil Company, 40 Lee Burbank Highway, Revere, MA 02151	2,965.19
Glen Petroleum Corporation, Fish Island, North Bedford, MA 01730	800.21
Grimes Oil Company, Inc., 165 Norfolk Street, Boston, MA 02124	827.28
Grove Oil Service, 610 Laurel Hill Avenue, Cranston, RI 02920	394.47
Haffner, Parker Fuel, Post Office Box 1822, Shavertown, PA 18708	4,521.32
Haz Standard, 962 North Laurel Street, Hazelton, PA 18201	112.91
Heller, Main Street, Wapwallopen, PA 18660	241.29
Holliston Oil, 22 Exchange Street, Holliston, MA 01746	32.28

[3] This per gallon factor is computed by dividing the $228,335.71 available for distribution under the St. James consent order by 39,176,666 gallons, which represents St. James' total sales of all covered products during the consent order period.

[4] Purchasers identified in the ERA audit of St. James as having allegedly been overcharged may also submit information to show that they are entitled to larger refunds than those indicated in Appendix A.

APPENDIX A.—ST. JAMES RESOURCES CORPORATION—Continued

First purchasers	Portion of settlement amount [1]
Hopedale Coal & Ice Co., Inc., Hope Street, Hopedale, MA 01747	1,470.42
Ingle & Son, Circuit Street, Hanover, MA 02339	8,590.07
J.R. Williams, 132 Carpenterville Road, Phillipsburg, NJ 08865	184.79
Jay Fuel, 279 Clark Road, Post Office Box 723, Brookline, MA 02147	34.13
Jenny Oil Company, Inc., 6 Vine Street, Middleboro, MA 02346	143.74
L & A Fuel, 794 Sabattus Road, Lewiston, ME 04240	1,602.25
Lenzs Oil Terminals, 205 Lexington, Waltham, MA 02154	61.76
Lincoln, 420 Mountain Avenue, Middlesex, NJ 08846	1,550.70
Manbeck, Post Office Box 57, Schuylkill Haven, PA 17972	290.83
Charles H. Mantz, 65 2nd Street, Stallington, PA 18080	10.79
Marvo Oil Company, 10 Lunenburg Street, Fitchburg, MA 01420	1,940.16
McCoy Coal & Oil, 213 Broad Street, Cumberland, RI 02864	1,429.16
Metropolitan Petroleum, 500 Neponset Avenue, Boston, MA 02122	201.13
George Mizhir & Sons, 300 Elmwood Road, Winchedon, MA 01475	297.35
Mystic Fuel, Inc., 7 Corporation Way, Medford, MA 02155	10.83
Needham Oil Company, Inc., 355 Chestnut Street, Needham, MA 02192	556.15
Nightingale, 25 Adams Street, Braintree, MA 02184	3,568.93
Northeast Petroleum Corporation, 295 Eastern Avenue, Chelsea, MA 02150	2,788.30
Oil Service Company, 200 Boylston Street, Newton, MA 02167	813.61
Parker Lane Winn Company, 957 Main Street, Winchester, MA 01890	68.35
People's Fuel & Trucking, Inc., 73 City Hall Avenue, Gardner, MA 01440	130.24
Peschel, 66 Belvedere Avenue, Oxford, NJ 07836	18.46
Pelco Coal and Oil, South Windsor Road, South Royalton, VT 05068	126.34
Pioneer Oil, 450 Southbridge Street, Worcester, MA 01610	141.32
Previtt Oil Company, Inc., 1199 East Street, Dedham, MA 02026	57.49
Quincy Adams Coal & Oil Co., Inc., 10 Mayor Thomas McGrath Highway, Post Office Box 150, Quincy, MA 02169	872.47
Sears Fuel, 15 McKinney Road, Post Office Box 131, Plymouth, MA 02360	3,325.74
Sherman Brothers Heating Co., Inc., 1305 Pleasant Street, East Weymouth, MA 02189	94.91
Shupe, 1631 Spring Garden Street, Easton, PA 18042	27.41
Skin's Oil Company, 300 Elmwood Road, Winchendon, MA 01475	92.35
Supreme Petroleum, Post Office Box 756, Somerville, NJ 08876	79.58
Terry Oil, 96 Main Street, Hopkinton, MA 01748	1,048.41
Town River Oil Company, 289 Middle Street, East Weymouth, MA 02189	366.38
Trinity Oil, Inc., 133 Leland Street, Framingham, MA 01701	2,811.08
Union Coal & Oil Company, 743 North Main Street, Leominster, MA 01453	168.44
W.H. Riley & Son, Inc., 448 Broadway, Taunton, MA 02780	894.20
Wakefield Public Works, Wakefield, MA 01880	3,582.85
Wildcat, 237 Lunenburg Street, Fitchburg, MA 01420	1,793.06

Purchasers With No Available Address

B.V. Simmons	2,002.99
Cleo's Oil	984.67
Cornish	69.94
Energy Collab	1,027.69
F.L.F. Oil Company	375.86
Frable	1,693.53
Gathredo	514.85
Klipple	3,064.70
Niles	396.07

APPENDIX A.—ST. JAMES RESOURCES CORPORATION—Continued

First purchasers	Portion of settlement amount [1]
R. Petro Products	37.01
R. Hein	89.57
Sentinel Oil	210.12
Shellock	55.88

[1] Does not include interest. Actual refunds will include the interest which has accrued on these amounts since DOE received the St. James consent order funds on March 20, 1980.

APPENDIX B.—KINGSTON OIL SUPPLY

First purchaser	Portion of settlement amount
David Rubin, Rubin's Hotel, Kerhonskson, N.Y.	$546.00

[FR Doc. 85-13286 Filed 6-3-85; 8:45 am]

BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for filing Applications for Refund from funds obtained from Husky Oil Company in settlement of all issues regarding Husky's application of the federal petroleum price and allocation regulations.

DATE AND ADDRESS: Applications for refund must be postmarked by September 3, 1985, should conspicuously display a reference to case number HEF-0213, and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Geoffrey D. Stein, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6602.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set forth below. The Decision and Order establishes procedures to distribute funds obtained as a result of a consent order between Husky Oil Company (Husky) and DOE. The consent order settled all disputes between DOE and Husky concerning possible violations of DOE price and allocation regulations with respect to the firm's sales of refined petroleum products to its customers during the period August 19, 1973 through January 28, 1981.

Any members of the public who believe that they are entitled to a refund in this proceeding may file Applications for Refund. All Applications should be postmarked by September 3, 1985, and should be sent to the address set forth at the beginning of this notice. Applications for refunds must be filed in duplicate and these applications will be made available for public inspection between the hours of 1:00 and 5:00 p.m., Monday through Friday, except federal holidays, in the Public Docket Room of the Office of Hearings and Appeals, located in Room 1E-234, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Dated: May 17, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy

Special Refund Procedures

Name of Case: Husky Oil Company.
Date of Filing: October 13, 1983.
Case Number: HEF-0213.

The procedural regulations of the Department of Energy (DOE) permit the Economic Regulatory Administration (ERA) to request that the Office of Hearings and Appeals (OHA) formulate and implement procedures for distributing funds received as a result of an enforcement proceeding involving alleged violations of DOE regulations. *See* 10 CFR Part 205, Subpart V. In accordance with these regulatory provisions, on October 13, 1983, the ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order entered into with Husky Oil Company (Husky). Under the terms of the consent order, Husky agreed to remit $2 million to the DOE In settlement of all civil and administrative claims by the DOE relating to Husky's compliance with the federal petrolem price and allocation regulations applicable to refiners of petroleum products during the period from August 19, 1973 through January 28, 1981 (the consent order period).

I. Background

Husky is a "refiner" of petroleum products as that term was defined in 10 CFR 212.31. During the consent order period, Husky was engaged in the production, refining, and marketing of products covered by the federal petroleum price and allocation

regulations set forth in 10 CFR Part 212. In 1975, the ERA began an audit to determine Husky's compliance with these regulations. In the course of this audit, Husky and the DOE entered into a proposed consent order, whereby Husky agreed to remit $2 million to the DOE to resolve all issues regarding Husky's application of the regulations during the consent order period. Notice of this proposed consent order was published for public comment at 47 FR 10072 (1982). Comments were received from several interested parties. The proposed consent order was adopted without modification as a final order of the DOE on June 15, 1982. 47 FR 25764 (1982).

On December 14, 1984, the OHA issued a Proposed Decision and Order (PD&O) setting forth a tentative plan for the distribution of the Husky consent order funds. 49 FR 49882 (December 24, 1984). In the PK&O, we described a two-stage process for disbursing refunds. We proposed that in the first stage, refunds would be made to identifiable purchasers of covered products who may have been injured by Husky's pricing practices during the consent order period. This decision describes the information that purchasers of Husky petroleum products should submit in order to demonstrate eligibility for a portion of the consent order funds. After these meritorious claims are paid, a second stage may become necessary if funds remain.

Comments were solicited regarding the proposed refund procedures outlined in the PD&O. Thirteen states, the National Council of Farmer Cooperatives, the Husky Marketers and the Jobbers Group filed comments in response to the PD&O.[1] These comments are discussed below in our presentation of the procedures we are adopting. In addition, each of the commenting states discussed the distribution of residual funds in the second-stage proceeding. the formulation of procedures for the final disposition of any funds remaining after meritorious claims have been paid will necessarily depend on the size of the fund. *See Office of Enforcement*, 9 DOE ¶ 82,508 (1981). Accordingly, it would be premature for us to address at this time the issues raised by the states' comments concerning disposition of second-stage funds.

II. Refund Procedures

The procedural regulations of the DOE set forth general guidelines to be used by the OHA in formulating and implementing plans to distribute funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE is unable to identify readily those persons who likely were injured by alleged overcharges or to ascertain readily the amount of such persons' injuries. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds, *see Office of Enforcement*, 9 DOE ¶ 82,508 (1981), *and Office of Enforcement*, 8 DOE ¶ 82,597 (1981).

During the first stage in the refund process, funds from the Husky consent order will be distributed to claimants who satisfactorily demonstrate that they have been adversely affected by alleged overcharges in Husky's sales of covered products. As in many prior special refund cases, we will adopt certain presumptions. First, we will adopt a presumption that the alleged overcharges were dispered equally in all sales of products made by Husky during the consent order period. We will therefore calculate refunds based on a per-gallon, volumetric refund amount. Second, we will adopt a presumption of injury with respect to small claims.

Presumptions in refund cases are specifically authorized by applicable DOE procedural regulations. Section 205.282(e) of those regulations states that:

> [i]n establishing standards and procedures for implementing refund distributions, the Office of Hearings and Appeals shall take into account the desirability of distributing the refunds in an efficient, effective and equitable manner and resolving to the maximum extent practicable all outstanding claims. In order to do so, the standards for evaluation of individual claims may be based upon appropriate presumptions.

10 CFR 205.282(e). The presumptions to be adopted in this case will permit claimants to participate in the refund process without incurring disproportionate expenses, and will enable the OHA to consider refund applications in the most efficient way possible in view of the limited resources available.

A claimant will be eligible to receive a refund equal to the documented number of gallons it bought from Husky during the consent order period, multiplied by a volumetric percentage. This percentage is computed by dividing the $2,000,000 consent order fund by the total number of gallons sold by Husky during the consent order period. Based on information obtained from Husky's annual reports to shareholders, we estimate that Husky sold 4,378,900,340 gallons of covered products during the consent order period. This figure results in a volumetric refund amount of $.000456 per gallon. In addition, the interest which has accrued to the consent order funds will be applied to each paid refund on a pro rata basis.

The pro rata, or volumetric, refund presumption assumes that alleged overcharges were spread equally over all gallons of product marketed by Husky. In the absence of better information, this assumptions is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices. However, we also recognize that the impact on an individual purchaser may have been greater than the pro rata amount determined by the volumetric presumption. Certain purchasers may believe that they suffered disproportionate injury as a result of Husky's pricing practices during the consent order period. Any such purchaser may file a refund application for an amount greater than that calculated using the volumetric presumption, provided that the claimant documents the disproportionate impact of the alleged overcharges. *See, e.g. Sid Richardson Carbon and Gasoline Co. and Richardson Products Co./Siouxland Propane Co.*, 12 DOE ¶85,054 (1984), and cases cited therein at 88,164.

In the PD&O, we tentatively determined that resellers and retailers seeking refunds totalling $5,000 or less under the volumetric presumption would not be required to demonstrate further any injury resulting from the alleged overcharges. The State of North Carolina filed comments opposing our proposal of this presumption in the PD&O. North Carolina contents that refunds should be paid only to those customers who can establish injury, regardless of the amount of the claim. Despite this contention, we remain convinced that this presumption is sound.

As we stated in the PD&O, the adoption of a presumption of injury for smaller claims is based on a number of considerations. We note that in past refund proceedings the OHA has analyzed extensively the issue of cost absorption by smaller purchasers of petroleum products. *See, e.g., Economic Regulatory Administration: In the*

[1] In addition, we received many inquiries from end-users of Husky products, especially from trucking firms which purchased large volumes of Husky diesel fuel. These firms are eligible to apply for refunds; however, diesel fuel was decontrolled effective July 1, 1976, and therefore refunds pertaining to purchases of diesel fuel will only be made for the period August 19, 1973 through June 30, 1976. Generally, refunds will only be made for Husky products which a firm purchased while these particular products were subject to the DOE price regulations. *See* 10 CFR 212.31 for the historical changes in the list of covered products and the dates on which these changes took effect.

Matter of Standard Oil Company (Indiana), 10 DOE ¶85,048 (1982) (*Amoco*) at 88,205–209. We have found that in cases of alleged overcharges by refiners such as Husky, retailers were probably injured to some degree in that they were unable to pass along all cost increases to their customers. *Amoco* at 88,206. In addition, because of the complexity of the pricing issues involved and the time elapsed since the alleged overcharges took place, attempts at restitution to deserving parties necessarily will be inexact. *See Citronelle-Mobile Gathering, Inc. v. Edwards*, 669 F. 2d 717, 722–23 (TECA 1982). Along with these factors, we must also consider the concerns raised in the PD&O regarding the cost to each firm of gathering all the information necessary to prove injury and the cost to the OHA of analyzing it. Since we firmly believe that smaller claimants bore some impact of the alleged overcharges and are mindful that failure to allow simplified application procedures for small claims could deprive injured parties of the opportunity to receive refunds, we conclude that the small claims presumption should be adopted.

Under the small claims presumption, a claimant who is a reseller or retailer will not be required to submit any additional evidence of injury beyond purchase volumes if its refund claim is based on purchases below a certain level. Previous OHA refund decisions have expressed this threshold in terms of either purchase volumes or refund dollar amounts. In *Texas Oil & Gas Corp.*, 12 DOE ¶85,069 (1984), we noted that describing the threshold in terms of a dollar amount rather than a purchase volume figure would more readily facilitate disbursements to applicants seeking relatively small refunds. *Id.* at 88,210. This case merits the same approach. Several factors determine the value of the threshold below which a claimant is not required to submit any further evidence of injury beyond volumes purchased. One of these factors is the concern that the cost to the applicant and the government of compiling and analyzing information sufficient to show injury not exceed the amount of the refund to be gained. In this case, where the refund amount is fairly low and the early months of the consent order period are many years past, $5,000 is a reasonable value for the threshold. *See Texas Oil & Gas Corp.*, 12 DOE ¶85,069 (1984); *Office of Special Counsel: In the Matter of Conoco, Inc.*, 11 DOE ¶85,228 (1984), and cases cited therein.

A reseller or retailer which claims a refund in excess of $5,000 will be required to document its injury. While there are a variety of means by which a claimant can make such a showing, a firm is generally required to show that market conditions would not permit it to pass through the increased costs associated with the alleged overcharges. In addition, a reseller or retailer of petroleum products must show that it maintained a "bank" of unrecovered costs, in order to demonstrate that it did not subsequently recover these costs by increasing its prices. *See, e.g., Triton Oil and Gas Corporation/Cities Service Company*, 12 DOE ¶85,107 (1984); *Tenneco Oil Co./Mid-Continent Systems, Inc.* 10 DOE ¶85,009 (1982).[2]

The Husky Marketers and the Jobbers Group filed consolidated comments suggesting that the cost bank showing required of claimants seeking larger refunds is prohibitively expensive and too difficult for medium-size resellers. The group suggests that the OHA adopt an alternative showing of injury, without a cost bank requirement, which would require less expenses of potential claimants. This proposed method would compare a firm's historical profit margin in a pre-regulation base period with its realized profits during the period for which it requests a refund. The commenting Group contends that this method would demonstrate the presence of cost banks—for increase, in months which the firm's profit margin is lower than the base period margin—without requiring an actual calculation of cost banks from the firm's old records. The group alternatively proposes that if the OHA is unable to change its standards for demonstrating injury, then the $5,000 threshold level should be raised so that firms not wishing to incur the expense of calculating cost banks may receive refunds more commensurate with the injury they suffered.

First, we believe that the commenters' proposal regarding a new standard of injury has serious limitations. The profit margin comparison, standing alone, would not be reliable evidence of injury and absorbed costs. Because cost banks are cumulative, a firm's ability to pass through some of the increased costs it had previously incurred had the effect of drawing down the cost banks tabulated in previous months. A firm which ultimately was able to recoup its costs therefore was not "injured" by the alleged overcharges, would no longer have cost banks, and would not be eligible for a refund under the cost bank requirement used by the OHA in past proceedings. *See Bayou State Oil Corporation*, 12 DOE ¶85,197 (1985) at 88,622. However, under the commenting group's alternate proposal, such a firm would be eligible for refunds for all months in which it realized lower than base period profits, regardless of whether it eventually was able to recoup fully its increased costs. Although this method would reduce the cost and effort required of claimants, it would also permit refunds to be paid to parties which may not have been injured by the alleged overcharges and therefore would not be acceptable as a standard of injury in this refund proceeding.

However, the OHA is not wedded in every case to a requirement that firms submit their actual, contemporaneous cost banks to show that they were unable to recoup alleged overcharges. In a case in which a firm did not contemporaneously calculate banks and there are specific circumstances which make calculation of banks at this time prohibitively expensive, we will accept monthly profit margin data. However, the claimant will have the burden of demonstrating how this data proves the existence of cost banks during the consent order period. The firm also must explain why any increases in its profits above base period levels should not be taken to indicate that increased costs associated with alleged overcharges were later recouped. In addition, the firm will still be obliged to show that market conditions would not permit it to pass through the alleged overcharges. *See Bayou State Oil Corporation*, 12 DOE ¶ 85,197 (1985) at 88,623.

With regard to the commenters' alternative suggestions, we will not raise the threshold level to be used for the presumption of injury in this proceeding. As stated, we believe the $5,000 figure to be a reasonable level based on the competing factors in this case. Moreover, we are providing an alternative to presenting contemporaneously compiled cost banks to the extent that profit margin analysis may be employed to show the presence of cost banks in certain cases. Therefore, the cost of demonstrating injury may be lowered. In addition, we are not convinced that the cost of calculating cost banks at this later date is as high as the commenters contend it is—greater than $20,000 for a middle-sized reseller. In this regard, we note that these firms were required under the

[2] Resellers or retailers who claim a refund in excess of $5,000 but who cannot establish that they did not pass through the price increases will be eligible for a refund up to the $5,000 threshold, without being required to submit further evidence of injury. Firms potentially eligible for greater refunds may choose to limit their claims to $5,000 in order to avoid having to submit detailed documentation of their injury. *See* Office of Enforcement, 8 DOE ¶82,597 (1981) at 85,396.

regulations to compile contemporaneously information from which cost banks could be readily calculated. *See* 10 CFR 210.92 *and* 212.93(a). Considering all these factors, we conclude that the threshold will remain at $5,000 in this case.

We find that end-users or ultimate consumers whose business is unrelated to the petroleum industry were injured by the alleged overcharges settled in the consent order. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period, and they were not required to keep records which justified selling price increases by reference to cost increases. For these reasons, an analysis of the impact of the increased cost of petroleum products on the final prices of non-petroleum goods and services would be beyond the scope of this special refund proceeding. *See Office of Enforcement, Economic Regulatory Administration: In the Matter of PVM Oil Associates, Inc.*, 10 DOE ¶ 85,072 (1983); *see also Texas Oil & Gas Corp.*, 12 DOE at 88,209, and cases cited therein. We have therefore concluded that downstream end-user purchasers of Husky petroleum products need only document their purchase volumes in order to make a sufficient showing that they were injured by the alleged overcharges.

In addition, refund applications from firms regulated by a governmental agency or by the terms of a cooperative agreement will not be required to demonstrate that the firm absorbed the alleged overcharges. In the case of regulated firms, *e.g.*, public utilities, any overcharges incurred as a result of Husky's alleged violations of the DOE regulations would routinely be passed through to their customers. Similarly, any refunds received by such firms would be reflected in the rates they are allowed to charge their customers. Refunds to agricultural cooperatives will likewise directly influence the prices charged to member customers. Consequently, these firms too need only document their purchase volumes from Husky to make an adequate showing of injury. *See Office of Special Counsel*, 9 DOE ¶ 82,538 (1982). However, along with their applications these firms should provide a full, detailed explanation of the manner in which refunds would be passed through to customers and how the appropriate regulatory body or membership group will be advised of the applicant's receipt of a refund.

As in previous cases, we propose that there is a class of potential claimants who may be presumed to have suffered no injury from Husky's alleged overcharges. Those parties are firms that made spot purchases of Husky petroleum products.[3] *See Office of Special Counsel*, 10 DOE ¶ 85,048 (1982); *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (hereinafter cited as Vickers). As we stated in *Vickers:*

> [T]hese customers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of Vickers motor gasoline at increased prices unless they were able to pass through the full amount of Vickers' quoted selling price at the time of purchase to their own customers.

8 DOE at 85,396–97. We believe that the same rationale applies in this case. Consequently, we propose to establish a rebuttable presumption that spot purchasers were not injured by Husky's pricing practices. Thus, a spot purchaser claimant will be required to submit additional evidence sufficient to establish that it was unable to recover the prices it paid to Husky.

As in previous cases, we will set a minimum refund amount to potential claimants. In prior refund cases, we have not granted refunds for less than $15.00 because the cost of issuing such refunds exceeds the restitutionary benefits which may be achieved. *See Office of Special Counsel*, 10 DOE ¶ 85,048 (1982) at 88,214. We will utilize the same minimum refund amount in the present case.

III. Applications for Refund

After considering the comments received concerning the first-stage refund procedures tentatively adopted in the December 14, 1984 PD&O, we have concluded that the proposed procedures should be implemented, as outlined above. We shall now accept applications for refunds from parties who purchased covered products from Husky during the consent order period.

In order to receive a refund, each claimant must provide a monthly schedule of its volume of purchases from Husky during the consent order period. If no documentation of the number of gallons purchased is available, a claimant must submit a detailed estimate of its purchases. Each claimant must also indicate its place in Husky's chain of distribution, *e.g.*, ultimate consumer, reseller, etc. If a reseller or retailer claims a refund in excess of $5,000, it must demonstrate that it was injured by Husky's pricing practices by submitting the types of information outlined in Section II of this Decision.

All applications must be filed in duplicate and must be received within 90 days of publication of this Decision and Order in the **Federal Register.** A copy of each application will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals. Any applicant who believes that its application contains confidential information must so indicate and submit two additional copies of its application from which the confidential information has been deleted. Each application must also include the following statement: "I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief." *See* 10 CFR 205.283(c); 18 U.S.C. 1001. In addition, the applicant should provide the name and telephone number of a person who may be contacted by the OHA for additional information concerning the application.

Applications should refer to Case Number HEF–0213 and should be sent to: Husky Oil Company Refund Proceeding, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

It Is Therefore Ordered That:

(1) Applications for Refund from the funds remitted to the Department of Energy by Husky Oil Company pursuant to the consent order executed on January 8, 1982, may now be filed.

(2) All applications must be filed no later than 90 days after publication of this Decision and Order in the Federal Register.

Dated: May 17, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals

[FR Doc. 85–13287 Filed 6–3–85; 8:45 am]

BILLING CODE 6450–01–M

[3] We will except from this principle cooperative organizations which made spot purchases of products from Husky and resold these products to their members. In the past, we have treated refund applications by cooperatives as applications made on behalf of their members, who, as ultimate customers, were not in a position to pass along increased costs. Similarly, any refund received by a cooperative would presumably be passed on to its members, in this form of either a price reduction or a distribution of surplus income. Office of Special Counsel, 9 DOE ¶ 82,538 (1982) at 85,203. *See, e.g.*, Anadarko Production Co./Cities Service Co., 12 DOE ¶ 85,060 (1984). Cooperative purchasers therefore will be presumed to have been injured in spot purchases of Husky products when these products were resold to members. Cooperatives in this category will be eligible to apply for refunds. These firms must explain in their refund applications the manner in which any refunds will be distributed to members.

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1517]

Petitions for Reconsideration and Clarification of Actions in Rule Making Proceedings

May 28, 1985.

The following listings of petitions for reconsideration and clarification filed in Commission rulemaking proceedings is published pursuant to CFR §1.429(e). Oppositions to such petitions for reconsideration and clarification must be filed within 15 days after publication of this Public Notice in the **Federal Register**. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: MTS and WATS Market Structure (CC Docket No. 78–72) Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board. (CC Docket No. 80–286)

Filed by: John F. Beasley, Vincent L. Sgrosso and Michael A. Tanner, Attorneys for BellSouth Corporation on behalf of South Central Bell Telephone Company and Southern Bell Telephone and Telegraph Company on 5–3–85

Subject: MTS and WATS Market Structure, Phase III: Establishment of Physical Connections and Through Routes Among Carriers; Establishment of Physical Connections by Carriers with Non-carrier Communications Facilities Planning Among Carriers for Provision of Interconnected Services, and in Connection with National Defense and Emergency Communications Services; and Regulations for and in Connection with the Foregoing. (CC Docket No. 78–72, Phase III)

Filed by:
Judith A. Maynes and David T. Wendells, Attorneys for American Telephone and Telegraph Company on 5–23–85
Victor J. Toth, Attorney for Digitech Communications on 5–20–85

Subject: Amendment of Part 94 of the Commission's Rules and Regulations to Authorize Private Carrier Systems in The Private Operational-Fixed Microwave Radio Service. (PR Docket No. 83–426)

Filed by:
Brian R. Moir, Daniel J. Harrold and Jay L. Witkin, Attorneys for International Communications Association on 4–30–85
William C. Sullivan, Linda S. Legg, Mary Whitten Marks and Michael J. Zpevak, Attorneys for Southwestern Bell Telephone Company on 5–6–85

Subject: Implementation of BC Docket No. 80–90 to Increase the Availability of FM Broadcast Assignments. (MM Docket No. 84–231)

Filed by:
Philip R. Olenick, Attorney and Jacob A. Bernstein, Chairman for the Committee for Community Access on 4–16–85
David Honig, Attorney for the National Black Media Coalition on 5–13–85
Forbes W. Blair and William D. Silva, Attorneys for the Humes Broadcasting Corporation on 5–13–85
Forbes W. Blair and William D. Siva, Attorneys for Larry Edwards d/b/a DAE Broadcasting Company on 5–13–85
Henry L. Baumann and Barry D. Umansky, Attorneys for National Association of Broadcasters on 5–20–85
John L. Tierney and Richard F. Swift, Attorneys for William O. Barry on 5–20–85
Vincent A. Pepper and John F. Garziglia, Attorneys for Sarasota-Charlotte Broadcasting Corporation on 5–20–85
Vincent A. Pepper and John F. Garziglia, Attorneys for Hancock Communications, Inc., on 5–20–85

Subject: Amendment of Part 90 of the Commission's Rules to Prescibe Policies & Regulations to Govern the Interconnection of Private Land Mobile Radio Systems with the Public Switched Telephone Network Below 800 MHz. (PR Docket No. 84–414)

Filed by: Garry L. Mott on 5–1–85

Subject: Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations. (Pine Top, Arizona) (MM Docket No. 84–522, RM–4653)

Filed by: Arthur Stambler and Andrew Ritholz, Attorneys for KBW Associates, Inc., on 4–25–85

Subject: Amendment of Section 73.702(f) Regarding Frequency Assignments for the International Broadcast Service. (MM Docket No. 84–706)

Filed by: Christopher D. Imlay, Attorney for The American Radio Relay League, Incorporated on 5–16–85

Subject: Implementation of BC Docket No. 80–90 to Increase the Availability of FM Broadcast Assignments. (MM Docket No. 84–231)

Filed by:
J. Geoffrey Bentley, Attorney for Harbor Cities Broadcasting, Inc., on 2–25–85. (Kewaunee, Seymour, Plymouth and Brillion, WI)
Dan J. Alpert, Attorney for Mid America Media Company on 2–25–85. (Shreveport, Homer, Vivian and Ruston, LA; San Augustine, TX)
Steven A. Lerman, Attorney for L.M. Communications, Inc., on 2–25–85. (Paris and Wilmore, KY)
Gary S. Smithwick, Attorney for Winfas, Inc. and Winfas of Belhaven, Inc., on 2–25–85. (Jacksonville, Nags Head and Belhaven, NC)

William J. Tricarico,
Secretary, Federal Communications Commission.

[FR Doc. 85–13392 Filed 6–3–85; 8:45 am]
BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202–008900–028.
Title: The "8900" Lines Agreement.
Parties:
A.P. Moller-Maersk Line
Barber Blue Sea Line
Waterman Steamship Corp.
Sea-Land Service, Inc.
National Shipping Company of Saudi Arabia
Nedlloyd Lijnen, B.V.
United Arab Shipping Company
Synopsis: The proposed amendment would modify the agreement to specify that the parties may not enter into chartering agreements until such agreements have been filed with the Commission and are effective.

Agreement No.: 203–010762.
Title: United States Eastbound Discussion Agreement.
Parties:
A.P. Moller-Maersk Line
Barber Blue Sea Line

National Shipping Company of Saudi Arabia
Nedlloyd Lijnen, B.V.
Sea-Land Service, Inc.
Waterman Steamship Corp.
United Arab Shipping Company (S.A.G.)

Synopsis: The proposed amendment would establish a cooperative working arrangement between the parties in the trade from United States ports and points to ports in the Mediterranean Sea, the Arabian/Persian Gulf and adjacent waters, the Red Sea and Gulf of Aden, parts in Pakistan, Sri Lanka, India, and Bengladesh, and to all points in all countries which can be served via such discharge ports. It would permit the parties to discuss, and in some matters agree upon, issues of mutual interest in the trade.

By Order of the Federal Maritime Commission.

Dated: May 30, 1985.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85-13357 Filed 6-3-85; 8:45 am]

BILLING CODE 6730-01-M

Intent To Terminate Approval of Agreement

Agreement No.: 207-009925.

Title: Associated Container Transportation (Australia) Limited and Australian Coast Shipping Commission; Joint Service Agreement.

Parties:
Associated Container Transportation (Australia) Limited
Australian Coast Shipping Commission

Synopsis: Having been notified of the termination of the agreement by the parties, the Commission gives notice that it will terminate its prior approval of Agreement No. 207-009925 effective June 1, 1985, the date the parties legally terminated their arrangement.

By Order of the Federal Maritime Commission.

Dated: May 30, 1985.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85-13356 Filed 6-3-85; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

First Commerce Bancshares, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 18420 to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such any activity. Unless otherwise noted, these activities will be conducted through the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 24, 1985.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First Commerce Bancshares, Inc.*, Lincoln, Nebraska; to become a bank holding company by acquiring 100 percent of the voting shares of Commerce Group, Inc., Lincoln, Nebraska, thereby indirectly acquiring the following companies: National Bank of Commerce Trust and Savings Association, Lincoln; Commerce Savings Lincoln, Lincoln; Commerce Savings Columbus, Columbus; Commerce Savings Scottsbluff, Scottsbluff; and 100 percent of the following companies and their subsidiary banks: Commerce Group Grand Island, Inc., Lincoln (Overland National Bank, Grand Island, Grand Island); Commerce Group Hastings, Inc., Lincoln (City National Bank and Trust Company of Hastings, Hastings); Commerce Group Kearney, Inc., Lincoln (First National Bank and Trust Company of Kearney, Kearney); Commerce Group North Platte, Inc., Lincoln (North Platte National Bank, North Platte); and Commerce Group West Point, Inc., Lincoln (First National Bank of West Point, West Point), all located in Nebraska.

First Commerce Bancshares, Inc. has also applied to acquire Commerce Affiliated Life Insurance Company, Phoenix, Arizona, thereby engaging in the activity of underwriting credit related insurance sold in connection with credit extensions made by credit granting subsidiaries of Applicant.

Board of Governors of the Federal Reserve System, May 29, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-13282 Filed 6-3-85; 8:45 am]

BILLING CODE 6210-01-M

First Jersey National Corp.; Correction

This notice corrects a previous **Federal Register** document (FR Doc. No. 85-10210), published at page 16752 of the issue for Monday, April 29, 1985. The correct name of the acquiree is The Broad Street National Bank of Trenton, Trenton, New Jersey. Comments on this application must be received by the Board not later than June 13, 1985.

Board of Governors of the Federal Reserve System, May 28, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-13279 Filed 6-3-85; 8:45 am]

BILLING CODE 6210-01-M

First National Shares of Louisiana, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than June 24, 1985.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First National Shares of Louisiana,* Baton Rouge, Louisiana; to become a bank holding company by acquiring 80 percent of the voting shares of First National Bank of East Baton Rouge, Baton Rouge, Louisiana.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Gateway Bancorp, Inc.,* Sturgis, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank & Trust Company, Sturgis, Michigan.

C. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Crockett County Bancshares, Inc.,* Bells, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of Bells Banking Company, Bells, Tennessee.

2. *Exchange Bancshares, Inc.,* El Dorado, Arkansas; to acquire 100 percent of the voting shares of Citizens Bank, Strong, Arkansas.

D. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Jans Bancshares, Inc.,* Kulm, North Dakota; to become a bank holding company by acquiring 85 percent of the voting shares of Kulm State Bank, Kulm, North Dakota.

Board of Governors of the Federal Reserve System, May 29, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-13283 Filed 6-3-85; 8:45 am]

BILLING CODE 6210-01-M

Fifth Third Bancorp; Formation of; Acquisition by; or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.24) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1852(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than June 24, 1985.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Fifth Third Bancorp,* Cincinnati, Ohio; to acquire 100 percent of the voting shares of The Fifth Third of Columbus, Columbus, Ohio.

Board of Governors of the Federal Reserve System, May 28, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-13278 Filed 6-3-85; 8:45 am]

BILLING CODE 6210-01-M

First Virginia Banks, Inc.; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commerce or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 20, 1985.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *First Virginia Banks, Inc.,* Falls Church, Virginia; to engage *de novo* through its subsidiary, First General Insurance Agency, Inc., Falls Church, Virginia, in general insurance agency activities pursuant to section 4(c)(8)(G) of the Act. This activity will be conducted in Virginia, Maryland, North Carolina, Delaware, Pennsylvania, New Jersey and the District of Columbia.

Board of Governors of the Federal Reserve System, May 28, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-13280 Filed 6-3-85; 8:45 am]

BILLING CODE 6210-01-M

Mellon Bank Corp.; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation

Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the parts commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 25, 1985.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Mellon Bank Corporation*, Pittsburgh, Pennsylvania; to engage *de novo* through its subsidiary, Mellon Securities Trust Company, New York, New York, in certain clearing and custodian activities with respect to securities, commerical paper and similar instruments, such as acting as forwarding agent, coupon paying agent, and provider of trade confirmation services for securities; and acting as issuing and paying agent for comemrcial paper and similar instruments, as well as activities incident thereto.

Board of Governors of the Federal Reserve System, May 29, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-13284 Filed 6-3-85; 8:45 am]

BILLING CODE 6210-01-M

Security Pacific Corp.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 18, 1985.

A. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Security Pacific Corporation*, Los Angeles, California; to acquire certain assets of Vierling, Devaney & Maguire, Inc., Los Angeles, California, and thereby provide municipal securities brokerage services, providing that such services will be restricted to buying and selling securities solely as agent for the account of customers and will not include securities underwriting, dealing or investment advice or research services, pursuant to § 225.25(b)(15).

Board of Governors of the Federal Reserve System, May 28, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-13281 Filed 6-3-85; 8:45 am]

BILLING CODE 6210-01-M

Agency Forms Under Review

May 28, 1985.

Background

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act of 1980, as per 5 CFR 1320.9, "to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320.9." Board-approved collections of information will be incorporated into the official OMB inventory of currently approved collections of information. A copy of the SF 83 and supporting statement and the approved collection of information instrument(s) will be placed into OMB's public docket files. The following forms, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority.

DATE: Comments must be received within fifteen working days of the date of publication in the **Federal Register**.

ADDRESS: Comments, which should refer to the OMB Docket number (or Agency form number in the case of a new information collection that has not yet been assigned an OMB number), should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, D.C. 20551, or delivered to room B-2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected in room B-1122 between 8:45 a.m. and 5:15 p.m., expect as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information, 12 CFR 261.6(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Robert Neal, Office of Information and Regulatory Affairs, Office of Management and Budget, New

Executive Office Building, Room 3208, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–3822).

Proposal to approve under OMB delegated authority the implementation of the following report:

1. Report title: ACH Transaction Data Report
Agency form number: FR 2220
OMB Docket number: 7100–0211
Frequency: Weekly
Reporters: Automated Clearing Houses (ACHs)
Small businesses are not affected

General description of report:

This information collection is mandatory [12 U.S.C. 464] and is given confidential treatment [5 U.S.C. 552(b)(4)].

The report will be collected only from privately operated ACHs that receive net settlement services from the Federal Reserve. The data will be used, in conjunction with Federal Reserve transaction data and data provided by privately operated, large-dollar funds transfer networks, to calculate depository institutions intra-day net reserve or clearing account balances on an after the fact or *ex post* basis.

Board of Governors of the Federal Reserve System, May 28, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85–13277 Filed 6–3–85; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Assessment of Mental Health Problems in Disaster Victims

AGENCY: The National Institute of Mental Health.

ACTION: Issuance of Special Announcement on Assessment of Mental Health Problems in Disaster Victims, MH–86–03.

SUMMARY: The National Institute of Mental Health through the Center for Mental Health Studies of Emergencies, Division of Prevention and Special Mental Health Programs, will award grants for researchers to estimate the type and incidence of mental health disorders, including Post Traumatic Stress Disorder, resulting from exposure to disaster, to study factors associated with the development and continuance of these disorders in victims exposed to different types of disaster events; and to assess changes in life functioning and other early behavioral problems following disaster exposure which may or may not lead to a mental disorder. The studies will use the instrument, Diagnostic Interview Schedule/Disaster Supplement (DIS/DS), for the assessment of victim's experiences and responses to a range of natural and technological emergencies. Support may be requested for up to 3 years.

Receipt Date of Applications For FY 1986 Funding: Applications will be accepted and reviewed according to the usual Public Health Service schedule and procedures.

FOR FURTHER INFORMATION OR A COPY OF THE ANNOUNCEMENT, CONTRACT: Susan Solomon, Ph.D. or Mary Lystad, Ph.D., Center for Mental Health Studies of Emergencies, National Institute of Mental Health, 5600 Fishers Lane, Room 6C–12, Rockville, Maryland 20857, (301) 433–1910.

Donald Ian Macdonald,

Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 85–13432 Filed 6–3–85; 8:45 am]

BILLING CODE 4160–20–M

Centers for Disease Control

Cooperative Agreement for a Project To Promote Implementation of the Model Standards: a Guide for Community Preventative Health Services

The Centers for Disease Control announces the availability of funds in Fiscal Year 1985 for a cooperative agreement with the American Public Health Association (APHA) to collaborate with the Association of State and Territorial Health Officials (ASTHO), the National Association of County Health Officials (NACHO), the U.S. Conference of Local Health Officers (USCLHO), and the Association of Schools of Public Health (ASPH) on a project to: (1) Promote adoption of the 1985 *Model Standards: A Guide for Community Preventive Health Services*, (2) assist State and local health departments in implementing the *Model Standards*, (3) disseminate data benchmarks for the *Model Standards*, and (4) evaluate promotion activities and develop a plan to evaluate the effect of the *Model Standards* on public health. Catalog of Federal Domestic Assistance Number is 13.283. This program is authorized under section 301(a) of the Public Health Service Act (42 U.S.C. 241(a)), as amended.

APHA's experience in managing the collaborative project to update and field test the *Model Standards* makes it the logical organization to coordinate assistance to State and local health departments in implementing this approach to public health objectives. Like the previous project, this effort will involve as key participants the five organizations that represent the intended users of the *Model Standards* and thus are critical to successful implementation. As a national organization that represents the total spectrum of public health, APHA has established close working relationships with ASTHO, NACHO, USCLHO, and ASPH and is in a unique position to provide leadership for this project.

This is not a formal request for applications. Assistance will be provided only to APHA for this project. It is expected that approximately $125,000 will be available during Fiscal Year 1985 to support this project. This is the first funding cycle on this project and will consist of a 5-year project period. Continuation awards through the 5th year will be made on the basis of satisfactory progress in meeting project objectives and on the availability of funds. Funding estimates outlined above may vary and are subject to change.

Information may be obtained from Nancy C. Bridger, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, N.E., Room 321, Atlanta, Georgia 30305, telephone (404) 262–6575 or FTS 236–6575.

Dated: May 24, 1985.

Robert L. Foster,

Assistant Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 85–13433 Filed 6–3–85; 8:45 am]

BILLING CODE 4160–18–M

Cooperative Agreement for a Project To Examine the State of the Art in Public Health and To Formulate Policy Options Related to the Future Roles, Functions, Organization, Research and Data Needs, and Manpower Implications for Public Health in General, and for State and Local Health Departments in Particular: Availability of Funds for Fiscal Year 1985

The Centers for Disease Control announces the availability of funds in fiscal year 1985 for a cooperative agreement with the Institute of Medicine, National Academy of Sciences (NAS), to carry out a two-year study to examine the state of the art in public health and to formulate policy options related to the future roles, functions, organization, research and data needs, and manpower implications for public health in general, and for State and local health departments in particular. The Catalog of Federal Domestic Assistance Number is 13.283. This program is authorized under section 301(a) of the Public Health Service Act (42 U.S.C. 241(a)), as amended.

Assistance will be provided only to the Institute of Medicine, NAS, for this project. The project is being undertaken by the Institute, and participation by the Centers for Disease Control represents only a minor part of the financial support of the project. The Institute is a research organization of national scope with access to and an esstablished reputation with all segments of the professional health community as an authority in areas affecting health policy issues. Therefore, this is not a formal request for applications. It is expected that approximately $75,000 will be available during fiscal year 1985 to support this project. It is anticipated that the cooperative agreement will be funded for an initial budget period of 12 months with a 2-year project period. The continuation award will be made on the basis of satisfactory progress in meeting project objectives and on the availability of funds. Funding estimates outlined above may vary and are subject to change.

Information may be obtained from Leo A. Sanders, Chief, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., Room 321, Atlanta, Georgia 30305, telephone (404) 262-6575 or FTS 236-6575.

Dated: May 24, 1985.

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 85-13312 Filed 6-3-85; 8:45 am]

BILLING CODE 4160-18-M

Cooperative Agreement To Assist Emory University in the Development of a Research and Research Training Program in International Health: Availability of Funds for Fiscal Year 1985

The Centers for Disease Control announces the availability of funds in fiscal year 1985 for a cooperative agreement with the Emory University School of Medicine, Department of Community Health, for assistance in the development of a research training program in international health. This program is authorized under section 301(a) of the Public Health Service Act (42 U.S.C. 241(a)), as amended. The Catalog of Federal Domestic Assistance Number is 13.283.

This cooperative agreement requires daily on-site interchange between the participating parties (i.e., research planning, curriculum development, student research experience, on-site support by the medical school faculty and CDC professional staff, etc.). The Master of Public Health Program of the Department of Community Health, Emory University School of Medicine, is the only such program in Atlanta, Georgia. This is not a formal request for applications, and other applications will not be accepted. It is expected that approximately $100,000 will be available in fiscal year 1985 to support this project and that the cooperative agreement will be funded for one year.

For Further Information Contact: Leo A. Sanders, Chief, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 225 East Paces Ferry Road, N.E., Room 321, Atlanta, Georgia 30305, Telephone: (404) 262-6575 or FTS 236-6575.

Dated: May 23, 1985.

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 85-13339 Filed 6-3-85; 8:45 am]

BILLING CODE 4160-18-M

Cooperative Agreements for State Capacity Building in Improving Performance and Utilization of Physician-Office Laboratories Through Training: Availability of Funds for Fiscal Year 1985

The Centers for Disease Control (CDC) announces the availability of funds for Fiscal Year 1985 for cooperative agreements to build capacity in improving the quality of laboratory tests performed in physician-office laboratories.

This program is authorized by section 301(a) of the Public Health Service (PHS) Act (42 U.S.C. 241(a)), as amended. The Catalog of Federal Domestic Assistance Number is 13.283.

Background

CDC has a long-standing mission and historic role in improvement of the Nation's medical laboratories through voluntary programs of continuing education. This concern with laboratory improvement is particularly important today in regard to CDC's disease containment and prevention objectives. Laboratory improvement activities, particularly voluntary continuing education, have been traditionally performed through or in cooperation with State health agencies, including public health departments and institutions of higher education.

A significant shift has occurred recently in the field of clinical laboratory testing, partly brought about by a change in Federal health care reimbursement regulations, such as the Diagnosis Related Groups.

It has been estimated that perhaps 50 percent of all laboratory diagnostic tests in the United States are now being performed in approximately 40,000 physician-office laboratories (7–10 billion tests annually). This is a laboratory client group with which CDC has not previously interfaced nor have many of the State public health laboratories, yet it appears likely to become the largest segment of the diagnostic laboratory field. Only limited information exists on the quality of the laboratory work performed in the physician's office, its level of sophistication, the personnel performing test procedures, and the needs, if any, for improvement. A few State health departments have some type of regulatory responsibility for physician-office laboratories; a few State university medical schools have

continuing education programs which focus on physicians in their operation of laboratories. CDC's present interest is in promoting the development of voluntary continuing education programs by these institutions for physician-office laboratory personnel; no direct participation by CDC personnel is anticipated in any activity associated with the voluntary training programs.

Purpose

The purpose of these cooperative agreements is to stimulate and assist State laboratories and universities (medical schools and schools of public health) in developing, presenting, and evaluating their programs for assisting in the improvement of microbiological testing in underserved physician-office laboratories through voluntary training and continuing education. While the major thrust may be for training of laboratory personnel actually performing the tests, it is also recognized that physician interpretation and utilization of the test results are an important factor in improvement. The physician is acknowledged, in his or her role as laboratory director, as having continuing education needs of a special nature appropriate to his or her professional level.

Recipient Activities

1. Determine the makeup of an intrastate consortium of affected interest groups (including physicians who operate office laboratories) to coordinate and support the improvement of performance in physician-office laboratories; participate in the formation of this consortium.

2. Identify the number and location of potential target physician-office laboratories within the State and select a voluntary representative sample which will yield predictive information for the entire population. (Target physician-office laboratories are those which volunteer to participate, have three or less laboratory personnel performing procedures in microbiology, have pathologist consultation no more than once per month, and have an average of less than one continuing education activity per year per laboratory employee.)

3. Determine volume and type (by system) of microbiology tests performed by the selected laboratories.

4. Inventory the training and experience of the personnel performing the tests.

5. Draw conclusions concerning the performance level (accuracy) of microbiology performed in target laboratories utilizing appropriate measures; e.g., performance on selected predicitive procedures, etc.

6. Analyze any performance deficiencies in microbiological procedures and determine subject(s) and extent of training needed.

7. Deliver remedial training in formats designed to fit the work situation of the several levels of personnel including physician director, nurses, and technicians. This training must be on a voluntary basis and have the approval of the consortium which includes representation of the target audience.

8. Evaluate improvement in technical performance and the efficacy of the training methodologies (delivery systems).

CDC Activities

1. Collaborate in determining the makeup, organization, and responsibilities of a consortium to coordinate the improvement of performance.

2. Participate in the selection of representative sample laboratories.

3. If proficiency testing is involved in assessment of performance, recommend procedures and assist with materials for testing in selected predictive procedures.

4. Assist in error analysis and determination of subject and extent of training needed.

5. Assist in the development and/or acquisition of remedial training in formats designed to fit the work situation and budgetary limitations.

6. Participate in evaluation of laboratory performance and training effectiveness in bringing about desirable change.

Eligibility Requirements

Eligible applicants are universities and medical schools, and the official State health departments, with State regulatory responsibilities for physician-office laboratories, including the Commonwealth of Puerto Rico, Guam, Northern Mariana Islands, Virgin Islands, the Trust Territory of the Pacific Islands and American Somoa.

Availability of Funds

It is anticipated that approximately $100,000 will be available in Fiscal Year 1985 to fund two agreements. Individual project awards are expected to be approximately $50,000 each. The cooperative agreements are for one year.

Methods and Criteria for Review

Review of the applications will be conducted in accordance with PHS Grants Administration Manual Chapter PHS 1-507, Objective Review of Grant Applications. An ad hoc committee of CDC personnel will review the merits of the applications, based upon the following:

—The applicant's understanding of the problem and the purpose of the cooperative agreements.

—The applicant's previous experience and involvement with laboratory improvement for physician-office laboratories; e.g., regulatory programs and/or previous or current cooperative projects with this client group.

—How the applicant will conduct the project, including the types and levels of training to be provided, means of selecting the clients, plans for forming the consortium, and securing voluntary participation.

—The capability to provide the staff and resources to perform the project and the approach to be used in carrying out the responsibilities.

—The proposed schedule (with time frames) for accomplishing the activities.

—The plans to evaluate both improvement in technical performance and the efficacy of the training methodologies.

Submission of Applications

The original and two copies of the applications must be submitted on or before July 15, 1985, to Mr. Leo A. Sanders at the address given below. Applications shall be be considered as meeting the deadline if they are either:

1. Received on or before the deadline date, or

2. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants should request a legibly dated United States Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the United States Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.) Applications which do not meet the above criteria will be considered late applications. Such applications cannot be accepted and will be returned to the applicant.

For applicant procedures and form contact Leo A. Sanders, Chief, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, N.E., Room 321, Atlanta, Georgia 30305, Telephone: (404) 262-6575 or FTS 236-6575.

For technical information and assistance contact John J. Krickel, Ed.D., Director, Division of Laboratory Training and Consultation, Laboratory Program Office, Centers for Disease Control, Building 3, Room B49, 1600 Clifton Road, N.E., Atlanta, Georgia 30333, Telephone: (404) 329-3232 or FTS 236-3232.

Dated: May 29, 1985.

William E. Muldoon,

Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 85-13355 Filed 6-3-85; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

Dermatologic Drugs Advisory Committee Meeting; Amendment of Notice

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration is amending the notice of the Dermatologic Drugs Advisory Committee meeting to explain that the committee discussion and conclusions regarding requirements to prove the efficacy of topical drugs such as live yeast cell derivative (LYCD) to promote wound healing will be considered by the agency in its preparation of a final monograph on over-the-counter (OTC) skin protectant drugs. The notice, which was published in the **Federal Register** of May 15, 1985 (50 FR 20295), is amended by revising the meeting announcement to read as follows:

Dermatologic Drugs Advisory Committee

Date, time, and place. June 24, 8:30 a.m., Conference Rm. E, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, 8:30 a.m. to 9:30 a.m.; open committee discussion, 9:30 a.m. to 5 p.m.; Thomas E. Nightingale, Center for Drugs and Biologics (HFN-32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4695.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in dermatologic disorders

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee should communicate with the contact person.

Open committee discussion. The committee will discuss: (1) Etretinate (Hoffmann-La Roche, Inc.); (2) requirements to prove the efficacy of topical drugs to promote wound healing based on data for LYDC submitted by Whitehall Laboratories (information on file in Docket No. 78N-0021); (3) prescription topical antibiotics for the treatment of skin infections, pseudomonic acid (Beecham Labs); and (4) Lindane (Reed & Carnrick). The committee's discussion and conclusions regarding LYCD will be considered by the agency in its preparation of a final monograph on OTC skin protectant drugs. Such a monograph is being developed as part of the OTC Drug Review proceeding on OTC skin protectant drug products. The tentative final monograph (proposed rulemaking) for those products was published in the **Federal Register** of February 15, 1983 (48 FR 6820).

Dated: May 29, 1985.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 85-13239 Filed 6-3-85; 8:45 am]

BILLING CODE 4160-01-M

Endocrinologic and Metabolic Drugs Advisory Committee; Amendment of Notice

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is amending an advisory committee meeting notice of the Endocrinologic and Metabolic Drugs Advisory Committee to reflect the deletion of one agenda item and that the committee will meet on June 24 only. The announcement of the Endocrinologic and Metabolic Drugs Advisory Committee meeting, which was published in the **Federal Register** of May 15, 1985 (50 FR 20295), is revised to read as follows:

Endocrinologic and Metabolic Drugs Advisory Committee

Date, time, and place. June 24, 9 a.m., Parklawn Bldg., Conference Rms. I and J, 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 5 p.m.; A.T. Gregoire, Center for Drugs and Biologics (HFN-810), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1869.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in metabolic and endocrine disorders.

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee should communicate with the contact person.

Open committee discussion. The committee will discuss the following: (1) the medical management of cryptorchidism, and (2) the revision of guidelines for clinical evaluation of drugs used in the treatment of osteoporosis.

Dated: May 29, 1985.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 85-13238 Filed 6-3-85; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Advisory Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following national advisory body scheduled to meet during the month of June 1985:

Name: Task Force on Organ Transplantation

Date and Time: June 17-18, 1985, 2:00 p.m.

Place: Shoreham Hotel, 2500 Calvert Street & Connecticut Avenue, NW, Washington, D.C. 20008

The entire meeting is open to the public.

Purpose: The Task Force on Organ Transplantation is required to conduct comprehensive examinations of the medical, legal, ethical economic, and social issues presented by human organ procurement and transplantation; including an assessment of immunosuppressive medications used to prevent organ rejection in transplant patients. Reports on these issues are required to be submitted to the Department of Health and Human Services and the Congress later this year.

Agenda: Topics for discussion include assuring equitable access to organ transplantation and ethical and social issues associated with donor organs being transplanted into non-immigrant aliens. On June 18, discussion of immunosuppressive therapies and approaches for assuring that patients needing immunosuppressive drugs can obtain them. The afternoon session will be devoted to a discussion of heart transplantation including patient selection criteria, contraindications for heart transplantation and institutional requirements needed to establish heart transplant programs.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should write to or contact Ms. Linda D. Sheaffer, Executive Director, Task Force on Organ

Transplantation, Office of Organ Procurement and Transplantation, Office of the Administrator, Health Resources and Services Administration, Room 17-60, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, telephone (301) 443-7577.

Agenda items are subject to change as priorities dictate.

Note.—This meeting is late because arrangements for hotel accommodations and the agenda items were not finalized in sufficient time to allow more timely notice.

Dated: May 31, 1985.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 85-13491 Filed 6-3-85; 8:45 am]

BILLING CODE 4160-15-M

Social Security Administration

Statement of Organization, Functions and Delegations of Authority

Part S of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (DHHS) covers the Social Security Administration (SSA).

Notice is hereby given that Part S as published in the Federal Register on August 7, 1979 (44 FR 46333-34) is amended to reflect the establishment of the Office of Acquisition and Grants (OAG). This realignment of the Division of Contracts and Grants Management (DCGM) to the Office of Acquisition and Grants elevates this critical function to a level that allows key Agency officials more direct responsibility for its management.

The new material and changes are as follows:

Section SM.10 *The Office of Management, Budget and Personnel*—(Organization)

G. *The Office of Materiel Resources* (SMM)

Delete:

3. The Division of Contracts and Grants Management (SMM3)

Renumber remaining subsections 3., 4. and 5.

Add:

J. The Office of Acquisition and Grants (SML), which includes:

1. The Division of ADP and Telecommunications Contracts (SML1)

2. The Division of Contract and Grant Operations (SML2)

3. The Division of Acquisition Planning and Policy (SML3)

Section SM.20 *The Office of Management, Budget and Personnel*—(Functions)

G. The Office of Materiel Resources (SMM)

Delete:

From Lines 6 and 7, "contracting and procurement, grants management,"

Delete all material:

3. The Division of Contracts and Grants Management (SMM3) Renumber remaining subsections 3., 4. and 5.

Add:

J. The Office of Acquisition and Grants (SML): Directs the business management aspects of SSA's procurement program for research, demonstration projects, automatic data processing and telecommunications equipment acquisition and procurement of supplies, material and services. The Office performs a continuous surveillance, review and evaluation of SSA procurement actions. It develops and implements policies, procedures and directives for SSA procurement activities. It performs the cost/price analysis and evaluation required to award and administer SSA contracts. The Office directs the business management aspects of SSA's discretionary grants management program. The Office includes the following components and functions:

1. The Division of ADP and Telecommunications Contracts (SML1):

a. Responsible for planning, solicitation, award and administration of contracts, purchase orders, delivery orders or other contractual instruments for the entire range of automatic data processing equipment, software and services; voice-grade telecommunications equipment and services; specialized training and computer support equipment.

b. Provides coordination, assistance and guidance in the development of complex procurement requirements and translates these needs into comprehensive solicitation packages to assure the maximum use of full and open competition.

c. Provides procurement advice, guidance and support for the development of acquisition strategies, evaluation techniques and negotiation of business and technical terms and conditions.

2. The Division of Contract and Grant Operations (SML2):

a. Responsible for planning, solicitation, award and administration of contracts, purchase orders, delivery orders or other contractual instruments for specialized program needs (e.g., program research, development and demonstration through studies and surveys, consultants, systems designs and evaluations) and procurement of administrative supplies, equipment and services in support of SSA's overall operational mission (e.g., technical and professional services, office equipment, moving services, film processing, translations and transcription services).

b. Provides coordination, assistance and guidance in the development of complex procurement requirements and translates these needs into comprehensive solicitation packages to assure maximum use of full and open competition.

c. Provides procurement advice, guidance and support for the development of acquisition strategies, evaluation techniques and negotiation of business and technical terms and conditions.

d. Responsible for planning, placement and administration of grants under all SSA's discretionary grants programs (including guidance and support in the selection strategy, evaluation process, budget negotiation, planning and development of policies, procedures, regulations and directives, etc.).

3. The Division of Acquisition Planning and Policy (SML3):

a. Responsible for the planning, development and implementation of comprehensive policies, procedures, regulations and directives for the SSA-wide procurement function.

b. Provides for surveillance, review and evaluaion of activities with delegated procurement authority.

c. Provides for audit support (through other Government resources or field audit) and cost/price analysis support in conjunction with the award, administration and closeout of SSA contracts.

d. Responsible for the planning, analysis and implementation of office automation techniques and a procurement management information system which meets the needs of SSA, HHS, FPDS or other users (including receipt, tracking and control of incoming procurement requests; collection, correlation and retrieval of procurement data for statistical reporting purposes; maintenance and operation of automated solicitation mailing list; workload analysis; procurement planning, etc.).

e. Responsible for the planning, development and implementation of an automated system for Advanced Planning and for the collection, analysis and reporting of planning statistics.

f. Assists in the development of long- and short-range operational objectives for the Office and monitors progress toward accomplishment of these objectives.

Dated: May 20, 1985.

Nelson J. Sabatini,

Acting Deputy Commissioner for Management and Assessment.

[FR Doc. 85-13345 Filed 6-3-85; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-85-1534]

Notice of Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Fishman, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Develpment, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755-6050. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the Office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Prepayment Privileges and Application of Monthly Payments Towards Late Charges of FHA-Insured Single Family Mortgages
Office: Housing
Form Number: HUD-92001
Frequency of Submission: On Occasion
Affected Public: Individuals or Households and Businesses or Other For-Profit
Estimated Burden Hours: 1,242
Status: Revision
Contact:
Gordon C. Peggs, HUD, (202) 75-6672
Robert Fishman, OMB, (202) 395-7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: April 26, 1985.

Proposal: Part 42—Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs
Office: Community Planning and Development
Form Number: HUD-40001
Frequency of Submission: Triannually
Affected Public: State or Local Governments
Estimated Burden Hours: 8,250
Status: Reinstatement
Contact:
Harold J. Huecker, HUD (202) 755-6336
Robert Fishman, OMB, (202) 395-6880

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: May 15, 1985.

Proposal: Reporting Requirements Associated with 24 CFR 203.508 and 235.1001—Providing Information
Office: Housing
Form Number: None
Frequency of Submission: Annually
Affected Public: Businesses or Other For-Profit
Estimated Burden Hours: 3,000
Status: Extension
Contact:
Sally McCormick, HUD, (202) 755-6672
Robert Fishman, OMB, (202) 395-7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: April 26, 1985.

Proposal: Application for Designation as Fee Personnel
Office: Housing
Form Number: HUD-92563
Frequency of Submission: Annually
Affected Public: Individuals or Households
Estimated Burden Hours: 500
Status: Extension
Contact:
Daniel T. Berry, HUD, (202) 755-6702
Robert Fishman, OMB, (202) 395-7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: April 26, 1985.

Proposal: Single Family Default Monitoring System (Initial Case Data Report)
Office: Housing
Form Number: HUD-92068A and 92068C
Frequency of Submission: Monthly and Quarterly
Affected Public: Individuals or Households, Businesses or Other For-Profit, and Small Businesses or Organizations
Estimated Burden Hours: 38,160
Status: Revision
Contact:
Sally McCormick, HUD (202) 755-6672
Robert Neal, OMB, (202) 395-7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: March 14, 1985

Dennis F. Geer,

Director, Office of Information Policies and Systems.

[FR Doc. 85-13427 Filed 6-3-85; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974—Revision of Notices of Systems of Records

This notice updates and revises the information which the Department of the Interior has published describing systems of records maintained which are subject to the requirements of section 3 of the Privacy Act of 1974, as amended, 5 U.S.C. 552a.

The Minerals Management Service (MMS) is publishing a new system of records notice titled "Travel Files—Interior, MMS-11". The notice describes

records pertaining to official government travel performed by employees of MMS. The notice does not describe new records that are being created, but represents existing records that were formerly described and included in a U.S. Geological Survey (USGS) system of records notice. When MMS was established, USGS provided administrative support to MMS, and the travel records on MMS employees were covered under the USGS notice (GS–14) being amended below.

The purposes and routine uses of the records described in MMS–11 are identical to those previously published in GS–14, therefore, the publication of MMS–11 is not considered to require a report as prescribed in 5 U.S.C. 552a(o).

The USGS notice titled "Travel Files—Interior, GS–14", previously published in the **Federal Register** on October 12, 1983 (48 FR 46450), is being revised to delete references to MMS employees. The notice now describes travel records maintained on only USGS employees. Minor editing and updating corrections are also made to the notice.

Since there are no new or intended uses of the information described in the systems of records published below, the notices are effective on June 4, 1985.

Dated: May 20, 1985.

Oscar W. Mueller, Jr.,

Director, Office of Information Resources Management.

INTERIOR/MMS–11

SYSTEM NAME:

Travel Files—Interior, MMS–11.

SYSTEM LOCATION:

Minerals Management Service, 12203 Sunrise Valley Drive, Reston, Virginia 22091.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Minerals Management Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, addresses, social security numbers; destination; itineraries; modes and purposes of travel; dates; expenses including advances; amounts claimed and reimbursed; travel orders; vouchers; receipts and passport record cards, and information pertaining to an amount owed on an outstanding or delinquent travel advance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5701, 31 U.S.C. 3512.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are (a) to account for travel advances; (b) to compute vouchers to determine amounts claimed and reimbursed; (c) to account for travel orders, maintain records of modes and purposes of travel and itineraries; and (d) to maintain records of passports. Disclosure outside the Department of the Interior may be made: (1) To the U.S. Treasury Department for payments; (2) the U.S. Department of State for passports; (3) to the U.S. Department of Justice when related to litigation or anticipated litigation; (4) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (5) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (6) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (7) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINAING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual and machine readable.

RETRIEVABILITY:

Indexed by name, social security number or travel order number.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51 for computerized and manual records.

RETENTION AND DISPOSAL:

Retained in accordance with GSA Federal Travel Regulations, and disposed of in accordance with the Minerals Management Service Records Management Handbook and GSA General Records Schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Financial Management Division, Minerals Management Service, 12203 Sunrise Valley Drive, Mail Stop 632, Reston, Virginia 22091.

NOTIFICATION PROCEDURE:

A written and signed request addressed to the System Manager is required from anyone seeking information concerning themselves. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Requests for access should be addressed to the System Manager and meet the requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and meet the content requirement of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Subject individuals, supervisors and standard finance office references.

INTERIOR/USGS 14

SYSTEM NAME:

Travel Files–Interior, GS–14.

SYSTEM LOCATION:

Geological Survey, National Center, Reston, Virginia 22092.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Geological Survey.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, addresses, social security numbers; destination; itineraries; modes and purposes of travel; dates; expenses including advances; amounts claimed and reimbursed; travel orders; vouchers; receipts and passport record cards and information pertaining to an amount owed on an outstanding or delinquent travel advance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5701, 31 U.S.C. 3512.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are to: (a) Account for travel advances; (b) compute vouchers to determine amounts claimed and reimbursed; (c) account for travel orders; maintaining records of modes and purposes of travel and itineraries; (d) maintain records of passports. Disclosure outside the Department of the Interior may be made

to: (1) The U.S. Treasury Department for payments; (2) the U.S. Department of State for passports; (3) to the U.S. Department of Justice when related to litigation or anticipated litigation; (4) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (5) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (6) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract grant or other benefit; (7) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual and machine readable.

RETRIEVABILITY:

Filed by name, social security number or travel order number.

SAFEGUARDS:

Storage facilities are in secured premises with access limited to personnel whose official duties require access.

RETENTION AND DISPOSAL:

Retained according to GSA Federal Travel Regulations, and disposed of according to Records Control Schedule and GSA General Records Schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Branch of Financial Management, Geological Survey, National Center, Reston, Virginia 22092.

NOTIFICATION PROCEDURE:

A written and signed request addressed to the System Manager is required from anyone seeking information concerning him or herself. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Requests for access should be addressed to the System Manager and meet the requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Subject individuals, supervisors and standard finance office references.

[FR Doc. 85-13295 Filed 6-3-85; 8:45 am]

BILLING CODE 4310-10-M

Bureau of Land Management

Bureau Forms Submitted for Review

May 2, 1985.

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Copies of the proposed information collections requirement and explanatory material may be obtained by contacting the Bureau of Land Management's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget, Interior Department Desk Officer, Washington, D.C. 20503, telephone number (202) 395-7340.

Title Exchanges—General Procedures, 43 CFR 2200

Abstract: To initiate and complete a land exchange proposal with the Bureau of Land Management. The information aids the Bureau in determining the applicant's eligibility and whether all statutory requirements have been met.

Frequency: Once

Description of Respondents: Any citizen of the United States, corporation subject to the laws of any State of the United States, a State, or a political subdivision of a State desiring to propose an exchange.

Annual Responses: 115

Annual Burden Hours: 345

Bureau Clearance Officer: Rebecca Daugherty at (202) 653-8853

Frank A. Edwards,

Assistant Director—Land Resources.

[FR Doc. 85-13424 Filed 6-3-85; 8:45 am]

BILLING CODE 4310-84-M

[CA 17071]

Notice of Realty Action in Exchange of Public Lands in Riverside County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Realty Action—Exchange of Public Lands in Riverside County (CA 17071).

SUMMARY: The following described lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716):

San Bernardino Base and Meridian

T. 4 S., R. 6 E.,
Sec. 30: Lot 11, S½NE¼NE¼SW¼, SW¼SE¼NE¼, N½SE¼SE¼NE¼.
T. 5 S., R. 6 E.,
Sec. 4, W½NE¼NW¼SW¼, W½NW¼NW¼SW¼, W½NW¼SW¼SW¼, E½SW¼SE¼SW¼.
T. 7 S., R. 6 E.,
Sec. 20, SW¼, SW¼SE¼.
Total—245.04 acres.

In exchange for these lands, the Federal Government will acquire the following non-federal lands in Riverside County from The Nature Conservancy:

San Bernardino Base and Meridian

T. 3 S., R. 6 E.,
Sec. 35, NE¼SW¼SE¼, S½SW¼SE¼, E½SE¼.
Sec. 36, S½.
T. 4 S., R. 6 E.,
Sec. 1, Lot 1 and 2 of NE¼, Lot 1 and 2 of NW¼.
T. 4 S., R. 7 E.,
Sec. 6, Lot 1 and 2 of NE¼, Lot 2 of NW¼, NE¼SE¼, E½NE¼NW¼SE¼.
Total—1040.16 acres.

The purpose of this exchange is to acquire a portion of the non-federal lands within the proposed 13,030 acre preserve for the Coachella Valley fringe-toed lizard. the lizard is federally listed as threatened and State listed as endangered. The Bureau of Land Management's goal is to acquire approximately 6700 acres within the preserve. Other state or federal agencies will acquire the remaining portion of the preserve. The exchange will include surface and partial mineral estates for both the public and private lands. An appraisal has been completed and the lands being exchanged will be of equal value, or otherwise be equalized by cash payment to the Federal Government not to exceed 25 percent of the value of the public lands in the exchange.

Lands transferred out of public ownership will be subject to the following reservations, terms, and conditions:

The reservation to the United States of a right-of-way for ditches or canals constructed under the authority of the Act of August 30, 1890 (43 U.S.C. 945).

The reservation to the United States of the oil and gas, and geothermal steam rights under the public land parcels located in Section 30, T. 4 S., R. 6 E., and Section 4, T. 5. S., R. 6 E.

Upon publication of this Notice of Realty Action in the **Federal Register**, the public lands will be segregated from all appropriations under the public land laws, including the mining laws, except for exchanges and mineral leasing, for a period of two(2) years or upon issuance of patent or other conveyance document, whichever comes first.

Detailed information concerning this exchange, including the Environmental Assessment Record/Land Report is available for review at the California Desert District Office, 1695 Spruce Street, Riverside, California 92507.

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, California Desert District Office of the Bureau of Land Management at the above address. Any adverse comments will be evaluated by the District Manager, and forwarded to the California State Director, Bureau of Land Management, who may vacate, uphold, or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of Interior.

May 23, 1985.

H.W. Riecken,

Acting District Manager.

[FR Doc. 85-13435 Filed 6-3-85; 8:45 am]

BILLING CODE 4310-40-M

Colorado: Filing of Plats of Survey

May 24, 1985.

The plats of survey of the following described land will be officially filed in the Colorado State Office, Bureau of Land Management, Denver, Colorado, effective 10:00 a.m., May 24, 1985.

The plat, representing the dependent resurvey of a portion of the subdivisional lines and portions of M.S. No. 2962, Gold Field No. 2 Placer, and M.S. No. 8806, River Placer; the remonumentation of the original ¼ section corner of sections 20 and 29, and the metes-and-bounds survey of certain lots, T. 13 S., R. 82 W., Sixth Principal Meridian, Colorado, Group Nos. 750 and 757, was accepted May 13, 1985.

This survey was executed to meet certain administrative needs of the U.S. Forest Service.

The protraction diagram of the following described lands approved May 13, 1985, will be officially filed in the Colorado State Office, Bureau of Land Management, Denver, Colorado, effective July 16, 1985.

Protraction Diagram No. 42, prepared to delineate the remaining unsurveyed public lands in T. 43 N., R. 11 W., New Mexico Principal Meridian, Colorado, was approved May 13, 1985.

This diagram in two (2) sheets was prepared to meet certain administrative needs ot this Bureau.

All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, 2020 Arapahoe Street, Denver, Colorado 80205.

Kenneth D. Witt,

Chief Cadastral Surveyor for Colorado.

[FR Doc. 85-13434 Filed 6-4-85; 8:45 am]

BILLING CODE 4310-84-M

[M-63884]

Realty Action; Noncompetitive Sale of Public Land in Stillwater County, MT

AGENCY: Bureau of Land Management, Miles City District Office, Interior.

ACTION: Notice of Realty Action M-63884, Noncompetitive Sale of Public Land in Stillwater County, Montana.

SUMMARY: The following described land has been examined and identified as suitable for disposal by sale pursuant to Section 203 of the Federal Land Policy and Management Act of 1976, U.S.C. 1713, at no less than fair market value.

Appraised Value $8,000.

Principal Meridian, Montana

T. 2 S., R. 20 E.,
Sec. 10, SE¼SE¼.
Contains 40 acres.

The land will be offered for sale in a direct-noncompetitive sale to the County of Stillwater.

The land is located approximately two air miles north of Columbus, the county seat of Stillwater County, Montana.

The subject land is the only available public land within a reasonable distance from Columbus that contains the physical attributes desired by the county to use as a sanitary landfill site. Contingent on undesirable soil coring test results, the county would use the site for a warehouse or equipment storage.

The land is currently leased for grazing to Mrs. Helen Handy Reed and adjoins her property on the south and east.

The proposed sale is consistent with the Bureau's planning system and was identified for disposal in the final Billings Resource Management Plan (1983). There is no legal access to the tract. The county is willing to negotiate or condemn access following purchase of the tract.

The government would acquire no benefits in this land sale, but county residents do support the sale to provide a future option for garbage disposal nearer than would otherwise be possible. The proposed sale thus meets the 43 CFR 2430 regulations that lands be determined to be chiefly valuable for public purposes. This consideration gives a preference for sale to the County of Stillwater.

The terms and conditions applicable to the sale are as follows:

1. The sale will be subject to all valid existing rights and reservations of record.

2. The Section 15 grazing lease to Mrs. Reed will remain in effect until the expiration date of the lease of February 28, 1989. Following the sale and until the lease expires, the County of Stillwater would be entitled to receive annual grazing fees from Mrs. Helen Handy Reed in an amount not to exceed that which would be authorized under the federal grazing fee published annually in the Federal Register. For this reservation, the county will receive a discount from the appraised fair market value.

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove the minerals. A more detailed description of this reservation, which will be incorporated in the patent document, is available for review at this BLM office.

4. The United States would reserve a right-of-way for ditches and canals constructed under the authority of the Act of August 30, 1890 (43 U.S.C. 945).

DATES: For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, P.O. Box 940, Miles City, Montana 59301. Any adverse comments will be evaluated by the BLM Montana State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become a final determination of the Department of the Interior.

FOR FURTHER INFORMATION CONTACT: Information related to the sale, including planning documents, environmental assessment, and the record of public discussions is available for review at

the Billing Resource Area Office, 810 East Main, Billings, Montana.

Dated: May 21, 1985.

Robert A. Teegarden,

Acting District Manager.

[FR Doc. 85-13436 Filed 6-3-85; 8:45 am]

BILLING CODE 4310-DN-M

New Mexico; Filing of Plat of Survey

May 20, 1985.

The plat of survey described below was officially filed in the New Mexico State Office, Bureau of Land Managememt, Santa Fe, New Mexico, effective at 10:00 a.m. on May 20, 1985.

The dependent resurvey and subdivision of sections, Township 3 North, Range 9 West, NMPM, NM.

This survey was requested by the Socorro District Manager, New Mexico.

The plat will be in the open files of the New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501. Copies of the plat may be obtained from that Office upon payment of $2.50 per sheet.

Gary S. Speight,

Chief, Branch of Cadastral Survey.

[FR Doc. 85-13425 Filed 6-3-85; 8:45 am]

BILLING CODE 4310-FB-M

New Mexico; Filing of Plat of Survey

May 29, 1985.

The plat of survey described below was officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, effective at 10:00 a.m. on May 29, 1985.

The dependent resurvey of a portion of the subdivisional lines and the survey of lot 11 in section 7 of Township 29 North, Range 13 West of the New Mexico Principal Meridian, New Mexico, under Group 824.

This survey was requested by the District Manager, Albuquerque, New Mexico.

The plat will be in the open files of the New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501. Copies of the plat may be obtained from that office upon payment of $2.50 per sheet.

Gary S. Speight,

Chief, Branch of Cadastral Survey.

[FR Doc. 85-13426 Filed 6-3-85; 8:45 am]

BILLING CODE 4310-FB-M

[A-19278]

Public Land Sale; Coconino County, AZ

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Realty Action—Sale, Public Lands in Coconino County, Arizona.

SUMMARY: The following described public land has been identified as suitable for disposal under sections 203(a) and 209(a) of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2750, 43 U.S.C. 1713 and 90 Stat. 2757, 43 U.S.C. 1719). The land will be offered for sale at not less than the appraised fair market value indicated below.

Gila and Salt River Meridian, Coconino County, Arizona

T. 41 N., R. 2 W.,

Sec. 29, Lot 5

Containing 20.14 acres, more or less, at a Fair Market Value of $4,028.

A mineral report has indicated that the federal minerals, with the exception of oil and gas, have no known mineral value. The declared high bidder will therefore be required to submit a $50.00 non-returnable filing fee for the acquisition of the mineral estate. Oil and gas will be reserved to the United States.

The method of sale will be by sealed bid. Sealed bids must be received in the BLM Arizona Strip District Office, 196 East Tabernacle, St. George, Utah 84770, not later than 4:30 p.m. on Friday, August 2, 1985. Bids must be accompanied by not less than ten percent (10%) of the bid price. Should the land not be sold by close of business August 2, 1985, it will be available for purchase over-the-counter at the above location.

The land will be patented subject to the following terms and conditions:

1. Reserving to the United States a right-of-way thereon for ditches and canals constructed by the authority of the United States, pursuant to the Act of August 30, 1980 (26 Stat. 391; U.S.C. 945).

2. Reserving to the United States all the oil and gas in the land, and to it or persons authorized by it, the right to prospect for, mine, and remove the same.

As provided in 43 CFR 2711.1-2(d), the public lands described herein shall be segregated to the extent that they will not be subject to appropriation under the public land laws, including the mining laws, but not the mineral leasing laws. Any subsequent application shall not be accepted, shall not be considered as filed and shall be returned to the applicant. This segregative effect shall terminate upon issuance of patent or other document of conveyance to such lands, upon publication in the **Federal Register** of a termination of the segregation or 270 days from the date of this publication, whichever occurs first.

Additional information concerning these parcels, terms and conditions of the sale, and bidding instructions may be obtained by calling the Resource Area Manager at (801) 628-4491 or by writing the BLM Arizona Strip District Office.

For a period of forty-five (45) days from the date of this Notice, interested parties may submit comments regarding the proposed action to the Arizona Strip District Manager, 196 East Tabernacle, St. George, Utah 84770. Objections will be reviewed by the District Manager who may sustain, vacate, or modify this Realty Action. In the absence of any objections, this Realty Action will become the final determination of the Department of Interior.

Dated: May 23, 1985.

Raymond D. Mapston,

Acting District Manager.

[FR Doc. 85-13315 Filed 6-3-85; 8:45 am]

BILLING CODE 4310-84-M

[U-52894]

Realty Action: Sale of Public Land in Beaver County, UT; Notice of Postponement

AGENCY: Bureau of Land Management, Interior.

ACTION: The sale of public land (U-52894), described as T. 29 S., R. 7 W., SLB&M, Sec. 18, Lot 2, as announced in the Friday, April 12, 1985 **Federal Register** (Vol. 50, No. 71, p. 14462) is hereby postponed until further notice. The segregative effect of the April 12, 1985 notice will remain until such time as the tract may be sold in the future or until it expires under provisions of 43 CFR 2711.1-2(d). A subsequent notice announcing a new sale day will be published at the appropriate time.

Dated: May 23, 1985.

Morgan S. Jensen,

District Manager.

[FR Doc. 85-13319 Filed 6-3-85; 8:45 am]

BILLING CODE 4310-DQ-M

BLM Utah Statewide Wilderness Draft Environmental Impact Statement; Notice of Revised Schedule and Alternatives To Be Considered

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: As a result of the need to substantially revise three WSAs to conform with instructions from the

Interior Board of Land Appeals and the need to include 805 acres of split estate lands and reinstate wilderness study areas (WSAs) of less than 5,000 acres resulting from a District Court decision (Sierra Club v. Watt), the schedule for public availability of the BLM Utah Statewide Wilderness Draft EIS has been changed from June 1985 to January 1986.

The EIS will be comprised of several volumes. Volume 1 will be a statewide analysis and the other volumes will contain analyses of individual WSAs.

As a result of public scoping and BLM studies, eleven statewide alternatives are being considered. Six of these have been tentatively identified for detailed study in Volume 1.

EFFECTIVE DATE: May 24, 1985.

SUPPLEMENTARY INFORMATION: On April 12, 1985, the Interior Board of Land Appeals affirmed Utah BLM inventory decisions for six areas involving 173,229 acres found not to be eligible, but at the same time required that the wilderness study area boundaries for three wilderness study areas (WSAs), Fiddler Butte, Mt. Pennell, and Mt. Ellen/Blue Hills, be revised to include additional lands, totaling 77,000 acres of BLM-administered land (IBLA Case 84–182).

On April 18, 1985, the United States District Court for the Eastern District of California issued a decision to return to WSA status areas of less than 5,000 acres contiguous with potential wilderness areas of other agencies. Ten of these, totaling 18,489 acres, that previously had been dropped from study are in Utah. That decision also requires inclusion of split-estate (Federal surface and State subsurface) land, totaling 805 acres, previously omitted in four WSAs in Utah (No. Civil S–83–035LKK).

As a consequence and in order to include the results of the two above actions, Utah BLM has rescheduled its work on the draft EIS. It is now planned to have the document ready for public review and comment beginning in January 1986. Formal public hearings on the draft will be scheduled for February and March 1986. These will be held at numerous locations throughout the State of Utah and will be further announced at the time the draft EIS is available.

The following information is furnished relative to the anticipated content of the draft EIS.

Volume I of the draft EIS will address statewide analysis of alternatives, comprised of various combinations of wilderness study areas. Only the alternatives described in the individual WSA analyses are aggregated in the statewide alternatives. To date 11 statewide alternatives have been identified; however, current acreage figures are approximate since studies still are ongoing and the additional lands noted above have not yet been included. The acreage ranges from 0 for the No Action Alternative to 3.2 million for the All Wilderness Alternative. The nine intermediate alternatives range from about 0.8 million acres to about 2.5 million acres.

(1) No Action:

Criteria: Alternative required by regulations. Provide lower limit to range of alternatives.

(2) All Wilderness:

Criteria: Inventory parameters are principal determinants.

Use All Wilderness Alternative from each individual WSA analysis.

Provide upper limit to range of alternatives.

(3) Manageability Alternative:

Criteria: Include areas without private inholdings and without significant acreages having prior and existing rights.

(4) Wilderness Highest Quality:

Criteria: Identify the highest quality areas, as judged by BLM. Ignore potential conflicts with other resources and uses.

(5) Preliminary Suitable Areas:

Criteria: Utilize wilderness suitability parameters from BLM study policy.

Include all areas and acres preliminarily judged by BLM to meet test of suitability.

(6) Modified Suitability Alternative:

Criteria: Use the alternative suggested in detail on pages 47 to 49 of the scoping booklet, including boundary modification on nine WSAs and two additional WSAs.

(7) Commodity Production:

Criteria: Include WSA areas that do not significantly conflict with known mineral resources, agriculture or potential expansion of livestock grazing, irrespective of wilderness quality.

(8) Large Cluster Concept:

Criteria: Include the All Wilderness Alternative for adjacent WSAs, separated by gravel roads (selected areas from #2 above).

Identify clusters that total 100,000 acres or more, including adjacent non-BLM wilderness lands or proposals.

Provide at least 25 percent BLM WSA land in a cluster.

(9) Wilderness Highest Quality with Minimum Conflict:

Criteria: Identify the highest quality areas, as judged by BLM.

Provide for minimum conflicts with other resources, to the extent possible.

Balance wilderness values with other resources where unavoidable conflicts may exist.

(10) Small Cluster Concept:

Criteria: Include only acreage that meet the suitability test, as determined by BLM (selected areas from #5 above).

Apply other two criteria as listed for the large Cluster concept.

(11) Regional Representative Areas:

Criteria: Select one or two WSAs as most representative of each of 5 regions in the State.

Regions are noted below.

Because some of the statewide alternatives would have similar overall acreages, it is expected that all will not be treated in detail in the draft EIS. It is currently anticipated that six alternatives (Numbers 1, 2, 3, 5, 9 and 10 as listed above) will be analyzed in detail in Volume 1 of the EIS. It is noted that some of the alternatives with similar overall acreages may have differing combinations of individual WSAs.

Individual analyses for each WSA will be included in other EIS volumes. The WSAs in these volumes will be grouped consistent with the five regions as follows:

West-Central Region—covers Utah's West Desert.

South-West Region—includes Zion vicinity and Kaiparowits Plateau.

South-Central Region—includes the Henry Mountains and Dirty Devil River Area.

South-East Region—covers the Canyonlands country.

East-Central Region—includes San Rafael Swell and the Book Cliffs.

FOR FURTHER INFORMATION CONTACT: The EIS Team Leader is Gregory F. Thayn, BLM Utah State Office (U–933), 324 South State Street, Salt Lake City, Utah 84111–2303 (phone 801–524–3135). Those desiring to be placed on the mailing list to receive the draft EIS, when available, should write to this address.

Dated: May 24, 1985.

Roland G. Robinson,

State Director.

[FR Doc. 85–13293 Filed 6–3–85; 8:45 am]

BILLING CODE 4310–DQ–M

[CA 6956]

California; Order Providing for Opening of Lands

May 21, 1985.

1. In an exchange of lands made under the provisions of section 206 of the Act of October 21, 1976, 90 Stat. 2756, the following land has been reconveyed to the United States:

Mount Diablo Meridian

T. 35 N., R. 8 E.,

Sec. 36, All.
T. 31 N., R. 13 E.,
Sec. 36, All.
T. 32 N., R. 13 E.,
Sec. 36, W½E½, SE¼NE¼, E½W½, SW¼NW¼, NW¼SW¼, NE¼SE¼.
T. 31 N., R. 14 E.,
Sec. 16, All.
T. 30 N., R. 15 E.,
Sec. 36, W½NE¼, SE¼NE¼, E½NW¼, SW¼NW¼, NW¼SW¼, E½SW¼, NE¼SE¼, W½SE¼.
T. 33 N., R. 15 E.,
Sec. 36, All.
T. 29 N., R. 16 E.,
Sec. 36, All.
T. 30 N., R. 16 E.,
Sec. 16, All.
T. 31 N., R. 16 E.,
Sec. 36, N½.
T. 36 N., R. 16 E.,
Sec. 36, NE¼NE¼, SE¼SW¼, SE¼.
T. 25 N., R. 17 E.,
Sec. 36, Lots 1, 2, 3 and NE¼NW¼, W½NE¼.
T. 29 N., R. 17 E.,
Sec. 16, All;
Sec. 36, All.
T. 30 N., R. 17 E.,
Sec. 16, All;
Sec. 36, All.
T. 31 N., R. 17 E.,
Sec. 36, All.
T. 32 N., R. 17 E.,
Sec. 16, All;
Sec. 36, All.
T. 33 N., R. 17 E.,
Sec. 16, All;
Sec. 36, All.
T. 34 N., R. 17 E.,
Sec. 16, All;
Sec. 36, All.
T. 35 N., R. 17 E.,
Sec. 36, All.

The area aggregates approximately 12,425.29 acres in Lassen County.

2. At 10 a.m. on July 5, 1985, the land shall be open to the operation of the public land laws generally, including the mining laws (30 U.S.C. Ch. 2), and the mineral leasing laws, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on July 5, 1985, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. Inquiries concerning the lands should be addressed to the Bureau of land Management, Department of the Interior, Room E–2841, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Nancy J. Alex,

Chief, Lands & Locatable Minerals Section, Branch of Lands & Minerals Operations.

[FR Doc. 85–13338 Filed 6–3–85; 8:45 am]

BILLING CODE 4310-84-M

Shoshone District Advisory Council; Meeting

AGENCY: Bureau of Land Management (BLM); Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda for a meeting of the Shoshone District Advisory Council.

DATE: Wednesday, June 26, 1985, at 10:00 a.m.

ADDRESS: BLM District Office, 400 West F Street, Shoshone, Idaho 83352.

FOR FURTHER INFORMATION CONTACT: Jon Idso, ADM for Resources, Shoshone District Office, P.O. Box 2 B, Shoshone, Idaho 83352. Telephone (208) 886–2206 or FTS 554–6576.

SUPPLEMENTARY INFORMATION: The proposed agenda for the meeting includes the following items:

Noxious Weed Program
Box Canyon Draft Management Plan

The Shoshone District Advisory Council is established under section 309 of the Federal Land Policy and Management Act of 1976 (Pub. L. 94–579; 43 U.S.C. 1701 et seq.), as amended. Operation and administration of the Council will be in accord with the Federal Advisory Committee Act of 1972 (Pub. L. 92–463; 5 U.S.C. Appendix 1) and Department of Interior regulations, including 43 CFR Part 1784.

The meeting will be open to the public. Anyone may present an oral statement before the Council between 1:00 and 2:00 p.m. or may file a written statement with the Council regarding matters on the agenda. Oral statements will be limited to ten minutes. Anyone wishing to make an oral statement should notify the Shoshone District Manager by June 25, 1985. Records of the meeting will be available in the Shoshone District Office for public inspection or copying within 30 days after the meeting.

Charles J. Haszier,

District Manager.

[FR Doc. 85–13311 Filed 6–3–85; 8:45 am]

BILLING CODE 4310-GG-M

Carson City District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting of the Carson City District Grazing Advisory Board.

DATE: June 27, 1984; 9:00 a.m.

ADDRESS: BLM Office, 1050 E. William St., Suite 344, Carson City, Nevada.

SUPPLEMENTARY INFORMATION: The agenda will include prioritization of Lahontan Resource Area grazing allotments, a briefing on the new regulations for leasing grazing privileges, presentation of proposed Fiscal 1986 range improvement projects and updates on wild horse and burro management, the BLM/Forest Service Interchange, the grazing fee study report, and the status of the Reno Grazing Environmental Impact Statement and the Walker and Lahontan Resource Management Plans. The public is invited, and anyone may appear before the Council at 11:00 a.m.

FOR FURTHER INFORMATION CONTACT: Steven Weiss, Public Affairs Officer, BLM, 1050 E. William St, Suite 335, Carson City, NV 89701 (702) 882–1631.

Thomas J. Owen,

District Manager.

May 22, 1985.

[FR Doc. 85–13335 Filed 6–3–85; 8:45 am]

BILLING CODE 4310-HC-M

Filing of Plat of Survey; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plat of survey of the following described land will be officially filed at 8:30 a.m. July 8, 1985 in the Oregon State Office, Portland, Oregon.

Willamette Meridian

T. 40 S., R. 12 W.,
sec. 31, Tract 37.

Tract 37 is located by metes and bounds within the Siskiyou National Forest in Curry County about five miles east of Brookings, Oregon, and three miles north of the California state line.

Elevations range from 500 feet to about 850 feet above sea level. The soil is rocky clay. Timber consists of fir, tanoak, alder, maple, and myrtle, and a dense undergrowth consists of huckleberry, salal, salmonberry, and fern.

Tract 37 is administered by the Siskiyou National Forest and is currently part of Forest Exchange application OR 36448.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 825 NE Multnomah Street, P. O. Box 2965, Portland, Oregon 97208.

Dated: May 23, 1985.

Robert E. Mollohan,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 85-13336 Filed 6-3-85; 8:45 am]

BILLING CODE 4310-33-M

[WASH 0710, WASH 0710A, OR-4061 (WASH), OR-22458 (WASH)]

Washington; Proposed Continuation of Withdrawals

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Department of the Army, Corps of Engineers, proposes that four land withdrawals for the Yakima Firing Center continue for an additional 50 years. The lands would remain closed to surface entry and mining but have been and would remain open to mineral leasing.

FOR FURTHER INFORMATION CONTACT: Champ Vaughan, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208 (Telephone 503-231-6905).

SUPPLEMENTARY INFORMATION: The Department of the Army, Corps of Engineers, proposes that the existing land withdrawals made by Public Land Order No. 75 of January 1, 1943, Public Land Order No. 692 of December 8, 1950, Public Land Order No. 4570 of January 16, 1969, and Public Land Order No. 1000 of August 26, 1954, be continued for a period of 50 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714.

The lands involved are located east of the Cascade Mountains in the northeast part of Yakima County and the southeast part of Kittitas County, Washington. A total of 36,417.76 acres are affected.

The purpose of the withdrawals is to protect the Yakima Firing Center. The withdrawals segregate the lands from operation of the public land laws generally, including the mining laws, and except for 573.47 acres, the mineral leasing laws. The Corps of Engineers proposed no change in the purpose or segregative effect of the withdrawals.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuations may present their views in writing to the undersigned officer at the address specified above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawals will be continued and if so, for how long. The final determination on the continuation of the withdrawals will be published in the **Federal Register.** The existing withdrawals will continue until such final determination is made.

Dated: May 22, 1985.

Robert E. Mollohan,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 85-13337 Filed 6-3-85; 8:45 am]

BILLING CODE 4310-33-M

[W-71396]

Wyoming; Proposed Continuation of Withdrawal

May 22, 1985.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation proposes to continue the existing withdrawal of 60.25 acres for ditchrider's residences and related facilities in connection with the North Platte Reclamation Project, for an additional 100 years. The lands remain closed to surface entry and mining. The lands have been and will remain open to mineral leasing.

DATE: Comments should be received by September 3, 1985.

ADDRESS: Comments and meeting requests should be sent to: Chief, Branch of Land Resources, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82003.

FOR FURTHER INFORMATION CONTACT: Scott Gilmer, Wyoming State Office, 307-772-2089.

The Bureau of Reclamation proposed that the existing withdrawal made by the Secretarial Order of August 10, 1908, be continued for a period of 100 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, insofar as it affects the following described lands:

Sixth Principal Meridian

T. 22 N., R. 60 W.,
Sec. 18, lot 6.
T. 23 N., R. 60 W.,
Sec. 6, NE¼SW¼.

The area described contains 60.25 acres in Goshen County.

The purpose of the withdrawal is to protect the ditchrider's residences and related facilities in connection with the North Platte Reclamation Project. The withdrawal segregates the land from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the Chief, Branch of Land Resources, in the Wyoming State Office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

L. Christian Vosler,

Deputy State Director, Lands and Renewable Resources.

[FR Doc. 85-13308 Filed 6-3-85; 8:45 am]

BILLING CODE 4310-22-M

[W-71410]

Wyoming; Proposed Continuation of Withdrawal

May 22, 1985.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation proposes that a 40 acre withdrawal for the North Platte Reclamation Project continue for an additional 100 Years. The lands remain closed to surface entry and mining but have been and will remain open to mineral leasing.

DATE: Comments and requests for a public meeting should be received on or before September 3, 1985.

ADDRESS: Comments should be sent to: Chief, Branch of Land Resources, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82003.

FOR FURTHER INFORMATION CONTACT: Scott Gilmer, Wyoming State Office, (307) 772-2089.

SUPPLEMENTARY INFORMATION: The Bureau of Reclamation proposed that the existing withdrawal made by the

Secretary Order of February 7, 1921, be continued for a period of 100 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The land is described as follows:

Sixth Principal Meridian, Wyoming

T. 25 N., R. 63 W.,
Sec. 25, NE¼SW¼.

The area described contains 40 acres in Goshen County.

The purpose of the withdrawal is to protect the Interstate Canal facilities, consisting of a ditchrider's residence, a spillway, and the Lingle Substation, for the North Platte Reclamation Project. The withdrawal segregates the land from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal may present their views in writing to the Chief, Branch of Land Resoruces, in the Wyoming State Office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be continued, and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

L. Christian Vosler,

Deputy State Director, Lands and Renewable Resources.

[FR Doc. 85-13309 Filed 6-3-85; 8:45 am]

BILLING CODE 4310-22-M

[W-71890]

Wyoming; Proposed Continuation of Withdrawal

May 22, 1985.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation proposes to continue the existing withdrawal of 89.14 acres for the Fremont Canyon Powerplant, Pick-Sloan Missouri Basin Program, for an additional 100 years. The lands remain closed to surface entry and mining. The lands have been and will remain open to mineral leasing.

DATE: Comments and meeting requests should be sent to: Chief, Branch of Land Resources, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82003.

FOR FURTHER INFORMATION CONTACT: Scott Gilmer, Wyoming State Office 307-772-2089.

SUPPLEMENTARY INFORMATION: The Bureau of Reclamation proposed that the existing withdrawal made by the Secretarial Order of October 6, 1933, be continued for a period of 100 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, insofar as it affects the following described lands:

Sixth Principal Meridian

T. 29 N., R. 83 W.,
Sec. 17, lots 1, 2;
Sec. 20, E½NE¼NE¼, NE¼SE¼NE¼;
Sec. 21, N½SE¼NW¼.

The area described contains 89.14 acres in Natrona County.

The purpose of the withdrawal is to protect the Fremont Canyon Powerplant and facilites. The withdrawal segregates the land from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal.

For a period 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the Chief, Branch of Land Resources, in the Wyoming State Office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

L. Christian Vosler,

Deputy State Director, Lands and Renewable Resources.

[FR Doc. 85-13310 Filed 6-3-85; 8:45 am]

BILLING CODE 4310-22-M

Fish and Wildlife Service

Establishment of the Connecticut Coastal National Wildlife Refuge and Delineaton of Project Boundaries

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This Notice designates by map the area of lands and waters in Fairfield and New Haven Counties, Connecticut which the Secretary of the Interior considers appropriate for the Connecticut Coastal National Wildlife Refuge. The Notice also establishes that present and future Fish and Wildlife Service property or interests therein, within the project area shown on that map, are components of Connecticut National Wildlife Refuge. These lands ae protected and administered in accordance with the Congressional Act, Treaties and Executive Orders which provide the legal basis for operation of units of the National Wildlife Refuge System.

ADDRESSES: A detailed map of the refuge is available for public inspection at the following offices.

(1) Office of the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158, and
(2) Ninigret National Wildlife Refuge, Crossland Park, Cross Street, Charlestown, Rhode Island 02813.

EFFECTIVE DATE: February 25, 1985.

FOR FURTHER INFORMATION CONTACT: Howard N. Larsen, Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158 or telephone (617)965-5100 (commercial) or 829-9200 (FTS).

SUPPLEMENTARY INFORMATION: The Act to establish the Connecticut Coastal National Wildlife Refuge was enacted by Congress on October 26, 1984 (Pub. L. 98-548). The Act provided that the Secretary designate approximately 145 acres of lands and waters on Chimon Island, Falkner's Island, Sheffield Island and Milford Point in the State of Connecticut as appropriate for the refuge and publish in the **Federal Register** notice of the availability, for public inspection, of a map depicting the refuge. The Secretary may make minor revisions in the designated boundaries of the refuge in order to carry out the purpose of the Act or to facilitate acquisition of property within the refuge. The Act further directed the Secretary to publish a notice in the **Federal Register** to establish Connecticut Coastal

National Wildlife Refuge whenever sufficient property was acquired that could be effectively managed as a national wildlife refuge.

Notice is hereby given that, pursuant to the above Act, the project area boundary for the Connecticut Coastal National Wildlife Refuge has been depicted on a map entitled "Connecticut Coastal National Wildlife Refuge" and dated March 1985, and that sufficient property interests have been acquired to constitute an area that can be effectively managed as a national wildlife refuge. Therefore the Connecticut Coastal National Wildlife Refuge was established effective February 25, 1985, with acceptance of the deed for Chimon Island.

Portions of this Refuge are units of the Coastal Barrier Resources System and as such Fish and Wildlife Service will undertake consultation procedures as required by the Coastal Barrier Resources Act.

A detailed map of the project area is on file and is available for public inspection at the offices listed in the address section above.

Dated: May 23, 1985.

Howard N. Larsen,

Regional Director.

[FR Doc. 85-13307 Filed 6-3-85; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Development Operations Coordination Document; BelNorth Petroleum Corp.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that BelNorth Petroleum Corporation has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 5347, Block 557, West Cameron Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Cameron, Louisiana.

DATE: The subject DOCD was deemed submitted on May 23, 1985. Comments mut be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the DOCD from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, *Attention OCS Plans*, Post Office Box 44396, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838-0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: May 24, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85-13323 Filed 6-3-85; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; ODECO Oil and Gas Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that ODECO Oil and Gas Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 5540, Block 90, Ship Shoal Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from onshore bases located at Dulac and Houma, Louisiana.

DATE: The subject DOCD was deemed submitted on May 23, 1985. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the DOCD from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, *Attention OCS Plans*, Post Office Box 44396, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838-0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13,

1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: May 24, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85-13320 Filed 6-3-85; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Shell Offshore Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Shell Offshore Inc. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 4701, Block 652, Matagorda Island Area, offshore Texas. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Galveston, Texas.

DATE: The subject DOCD was deemed submitted on May 22, 1985.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838-0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: May 23, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85-13321 Filed 6-3-85; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Tenneco Oil Exploration and Production

AGENCY: Minerals Management Service.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Tenneco Oil Exploration and Production has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 1253, Block 169, South Timbalier Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Fourchon, Louisiana.

DATE: The subject DOCD was deemed submitted on May 21, 1985.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Ms. Angie Gobert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838-0876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: May 23, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85-13322 Filed 6-3-85; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before May 25, 1985. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by June 19, 1985.

Carol D. Shull,

Chief of Registration, National Register.

COLORADO

Larimer County

Estes Park, *Stanley Hotel District (Boundary Increase)*, 333 Wonder View Ave.

Otero County

La Junta vicinity, *Bent's Old Fort*, CO 194

FLORIDA

Alachua County

Gainesville, *Boulware Spring Waterworks*, 3400 SE 15th St.

KANSAS

Sedgwick County

Wichita, *Kress, S.H., Company Building*, 224 E. Douglas

MAINE

Androscoggin County

Lisbon, *Farwell Mill*, ME 196

Cumberland County

Portland, *Cathedral of the Immaculate Conception*, Cumberland Ave. & Congress Sts.

Franklin County

New Sharon, *New Sharon Congregational Church*, ME 134

Hancock County

Ellsworth, *Ellsworth Powerhouse and Dam*, Union River

Verona, *Waldo-Hancock Bridge*, US 1

Kennebec County

Belgrade, *Chandler Store*, ME 27

Winthrop, *Bailey Charles M., Library*, Bowdoin St.

Lincoln County

Damariscotta, *Damariscotta Baptist Church*, King's Square

Oxford County

Rumford, *Rumford Point Congregational Church*, ME 5 and US 2 jct.

Penobscot County

Dexter, *Dexter Universalist Church*, Church St.

Waldo County

Prospect, *Waldo-Hancock Bridge*, US 1
Stockton Springs, *Stockton Springs Community Church*, ME 3 and US 1

York County

North Berwick, *Prescott, J.L., House*, High St.

MARYLAND

Baltimore (Independent City)

Compers School, 1701 East North Ave.
Swiss Steam Laundry Building, 100—102 N. Green St.

MASSACHUSETTS

Essex County

Saugus, *Saugus Town Hall*, Central St.

Suffolk County

Boston, *Commercial Palace Historic District*, Roughly bounded by Bedford, Summer, Devonshire, Franklin, Hawley & Chauncy Sts.

MISSOURI

Camden County

Pin Oak Hollow, *Pin Oak Hollow Bridge (ECW Architecture in Missouri State Parks 1933—1942 TR)*, Lake of the Ozarks State Park

NORTH CAROLINA

Ashe County

Tuckerdale vicinity, *Tucker, John W., House*, SR 1353

Chatham County

Bells vicinity, *Ebenezer Methodist Church (Chatham MRA)*, SR 1008
Bells vicinity, *Goodwin Farm Complex (Chatham MRA)*, SR 1900
Bynum vicinity, *Ward, Dr. E.H., Farm (Chatham MRA)*, SR 1700
Crutchfield Crossroads vicinity, *Whitehead-Fogleman Farm (Chatham MRA)*, SR 1352 & SR 1351 jct.
Farrington vicinity, *O'Kelly's Chapel (Chatham MRA)*, NC 751
Goldston vicinity, *Rives, William Alston, House (Chatham MRA)*, End of SR 2183 off SR 2187
Gulf, *Haughton-McIver House (Chatham MRA)*, SR 1007
Pittsboro vicinity, *Thomas, James A., Farm (Chatham MRA)*, SR 1941
Siler City vicinity, *Bowen-Jordan Farm (Chatham MRA)*, SR 1100
Siler City vicinity, *Teague, William, House (Chatham MRA)*, SR 1004
Siler City, *Gregson-Hadley House (Chatham MRA)*, 322 E. Raleigh St.
Siler City, *Hotel Hadley (Chatham MRA)*, 103 N Chatham St.
Silk Hope vicinity, *DeGroffenreidt-Johnson House (Chatham MRA)*, SR 1346

Durham County

Durham, *North Durham-Duke Park District*, Roughly bounded by Glendale Ave., W. Knox St., Roxboro Rd., Trinity Ave., Magnum & Broadway Sts.

Halifax County

Enfield vicinity, *Myrtle Lawn*, SR 1003

Hertford County

Winton, *Brown, C. S., School Auditorium*, Off NC 45

Hyde County

Fairfield, *Fairfield Historic District*, SR 1308, 1309, 1305 and NC 94
Lake Landing vicinity, *Lake Landing Historic District*, Roughly bounded by Mattamuskeet Refuge Boundary, Middletown, Nebraska, SR 1110 and US 264
Rose Bay vicinity, *Credle, George V., House and Cemetery*, US 264

Northampton County

Garysburg, *Garysburg United Methodist Church and Cemetery*, SR 1207

Orange County

Carrboro, *Carrboro Commercial Historic District*, 100 Blk. of E. Main St. between Greensboro Rd. & Roberson St.

Pitt County

Farmville vicinity, *May-Lewis, Benjamin, House*, US 264–A

Rowan County

Salisbury, *Brooklyn-South Square Historic District*, Roughly bounded by Fisher, Shaver, Walls and Lee Sts.
Salisbury, *Kesler Manufacturing Co.-Cannon Mills Co. Plant No. 7 Historic District*, Park Ave. and Boundary St.
Salisbury, *North Long Street-Park Avenue Historic District*, North Long St. and Park Ave.
Salisbury, *North Main Street Historic District*, Roughly bounded by N. Main, 17th, Lee and Lafayette Sts.
Salisbury, *Salisbury Historic District (Boundary Increase)*, Roughly bounded by S. Fulton, Horah, S. Main and McCubbins Sts.

Stokes County

Danbury, *Danbury Historic District*, Main St. Between Danbury Cemetery Rd. and NC 89

OHIO

Ashtabula County

Ashtabula, *Hotel Ashtabula*, 4726 Main Ave.

Holmes County

Holmesville vicinity, *Croco House*, OH 83

OREGON

Douglas County

Roseburg, *Mill-Pine Neighborhood Historic District*, Roughly bounded by Short St., Mosher Ave., Stephens St. and Rice Ave.

Lane County

Eugene, *Johnson Hall*, E. 13th between University and Kincaid Sts.

Polk County

Monmouth, *Graves-Fisher-Strong House*, 391 E. Jackson St.

PENNSYLVANIA

Philadelphia County

Chestnut Hill, *Chestnut Hill Historic District*, Roughly bounded by Fairmount Park and Montgomery Co. Line

WISCONSIN

Eau Claire County

Eau Claire, *Merrill, Levi, House (Eau Claire MRA)*, 120 Ferry St.

Winnebago County

Menasha, *Doty Island (47-WN-30)*, Smith Park off WI114

[FR Doc. 85-13129 Filed 6-3-85; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

Request for Public Comment on Termination of Investigation No. 104-TAA-26, Concerning the Sugar Content of Certain Articles From Australia

AGENCY: International Trade Commission.

ACTION: The Commission requests public comments on the proposed termination of all or part of investigation No. 104–TAA–26, concerning the sugar content of certain articles from Australia. All comments must be received by the Commission no later than two weeks from the date of publication in the **Federal Register**.

SUPPLEMENTARY INFORMATION: Section 104(b) of the Trade Agreements Act of 1979 (19 U.S.C. 1671 note) requires the Commission to conduct an investigation upon receipt of a proper request to determine whether an industry in the United States would be materially injured, or would be threatened with material injury, or the establishment of an industry in the United States would be materially retarded, by reason of imports, if an outstanding countervailing duty order were to be revoked. On September 9, 1982, the Commission received such a request from the Government of Australia for a review of T.D. 39541 (March 24, 1923), as amended, which imposes a countervailing duty on the sugar content of certain articles imported directly or indirectly from Australia. Accordingly, effective May 9, 1985, the Commission instituted investigation No. 104–TAA–26, concerning the sugar content of certain articles from Australia.

Imports covered by the review are "approved fruit products" and "other approved products" produced in Australia. The current list of "approved fruit products" includes the following items: Jams, canned fruit, citrus peel, crystallized (or glace) fruits, certain fruit cordials and fruit juices containing not less than 25 percent pure Australian juice. The list of "other approved products" currently includes: Alcoholic beverages, biscuits, cakes, puddings, pastries and similar mixtures and ingredients used to make them, chemicals derived from cane sugar by hydrolysis, chemical preparations used as inhibitors or stabilizers, condiments, confectionery, desserts and ingredients used to make them, drink powders and crystals, essences and flavorings, ice block mixtures, leather, icing sugar mixture, maple syrup, medicines and drugs, mixtures used to make icings, fillings, dressings and other foods, processed cereal foods or vegetables, processed egg products, processed milk products, quick frozen fruits, soft drinks, soups, spreads, sweetened fruit pulp and other fruit products which are not "approved fruit products." Exceptions to the above are pure sugar and pure icing sugar (that is, not mixed with other manufacturing ingredients), golden syrup, treacle and molasses. These are regarded as sugar and sugar syrups.

In light of the legislative history of section 704(a) of the Tariff Act of 1930 indicating Congress' expectation that the Commission will permit public comment prior to termination, the Commission requests written comments from interested parties (within the meaning of sections 771(9) (C), (D), or (E) of the Tariff Act of 1930), which represent an industry producing all or some of the subject products (within the meaning of section 771(4)(A)). It is expected that persons expressing an interest in this investigation will provide information regarding the issues of material injury or the threat thereof, by reason of the revocation of the countervailing duty order. The Commission will consider the comments received, as well as other relevant information, in determining whether to continue this investigation or any part thereof.

If the Commission terminates the investigation on all or some of the products covered by the countervailing duty order, the order will be revoked as to those products.

FOR FURTHER INFORMATION CONTACT: Stephen McLaughlin (202-523-0421), Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436.

By order of the Commission.

Issued: May 31, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-13470 Filed 6-3-85; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 388 (Sub-No. 38)]

Intrastate Rail Rate Authority; Alaska

AGENCY: Interstate Commerce Commission.

ACTION: Assumption of Commission jurisdiction over Alaska intrastate rail transportation.

SUMMARY: Pursuant to a request from the Governor of the State of Alaska, the Commission will assert jurisdiction over intrastate freight rates in Alaska.

EFFECTIVE DATE: July 3, 1985.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: In Ex Parte No. 388, *State Intrastate Rail Rate Authority—Pub. L. 96-448* (not printed), served February 8, 1982, 47 FR 5786 (1982), the Commission stated that several States, including Alaska, had not sought certification pursuant to 49 U.S.C. 11501(b) to regulate intrastate rail rates, and had, therefore, lost jurisdiction to regulate intrastate rail rates. These States were also requested to inform us if they desired the Commission to assume jurisdiction, and that in the absence of a request, we would not assert jurisdiction. As Alaska did not make such a request, the Commission stated that it would not assume jurisdiction in Alaska. *State Intrastate Rail Rate Authority—Pub. L. 96-448*, 365 I.C.C. 700 (1982).

On April 19, 1985, the Governor of the State of Alaska filed a request asking that the Commission assume intrastate rail rate regulation in Alaska, with the proviso that it may seek certification to regulate intrastate rail rates at a later time.

In accordance with Alaska's request, we are assuming jurisdiction over Alaska intrastate rail rates. Rail carriers in Alaska shall comply with Commission regulations, including the filing of intrastate tariffs and contracts with the Commission.

This action does not affect Alaska's right to seek certification in the future. Under 49 U.S.C. 11501(b), Alaska may seek certification at any time.

This decision does not significantly affect either the quality of the human environment or energy conservation.

Authority: 49 U.S.C. 11501.

Decided: May 22, 1985.

By the Commission, Chairman Taylor, Vice Chairman Gradison, Commissioners Sterrett, Andre, Simmons, Lamboley and Strenio.

James H. Bayne,

Secretary.

[FR Doc. 85-13334 Filed 6-3-85; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-43 (Sub-131X)]

Illinois Central Gulf Railroad Co.; Abandonment Exemption

Applicant has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments* to abandon its 10.22-mile line of railroad between milepost 99.00 near Shelby, MS, and milepost 109.22 near Renova, MS.

Applicant has certified (1) that no local traffic has moved over the line for at least 2 years and that overhead traffic is not moved over the line or may be rerouted, and (2) that no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or any U.S. District Court, or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days period to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment-Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective July 4, 1985 (unless stayed pending reconsideration). Petitions to stay must be filed by June 14, 1985, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by June 24, 1985, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423.

A copy of any petition filed with the Commission should be sent applicant's representative: Richard M. Kamowski, Illinois Central Gulf RR Co., 233 North Michigan Avenue, Chicago, IL 60601.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned

upon environmental or public use conditions.

Decided: May 29, 1985.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 85-13333 Filed 6-3-85; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Information Collection(s) Under Review

May 30, 1985.

The Office of Management and Budget (OMB) has been sent for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. The list has all entries grouped into new forms, revisions, or extensions. Each entry contains the following information:

(1) The name and telephone number of the Agency Clearance Officer (from whom a copy of the form and supporting documents is available;

(2) The office of the agency issuing the form;

(3) The title of the form;

(4) The agency form number, if applicable;

(5) How often the form must be filled out;

(6) Who will be required or asked to report;

(7) An estimate of the number of responses;

(8) An estimate of the total number of hours needed to fill out the form;

(9) An indication of whether section 3504(h) of Public Law 96-511 applies; and,

(10) The name and telephone number of the person or office responsible for the OMB review.

Copies of the proposed form(s) and the supporting documentation may be obtained from the Agency Clearance Officer whose name and telephone number appear under the agency name. Comments and questions regarding the items contained in this list should be directed to the reviewer listed at the end of each entry and to the Agency Clearance Officer. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer and the Agency Clearance Officer of your intent as early as possible.

Department of Justice

Agency Clearance Officer: Larry E. Miesse, 202/633-4312.

New Collection

(1) Larry E. Miesse, 202/633-4312
(2) Justice Management Division, Department of Justice
(3) Uniform Relocation and Real Property Acquisition for Federal and Federally Assisted Programs
(4) None
(5) On occasion
(6) State and local governments, individuals or households, farms, businesses or other for-profit, Federal agencies or employees, non-profit institutions, small businesses or organizations. Issues in conjunction with other Federal agencies to assure that owners of real property to be acquired by the Department of Justice and its Federally-assisted programs are treated fairy and consistently during implementation of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.
(7) 1 respondents
(8) 1 burden hour
(9) Not applicable under 3504(h)
(10) Robert Veeder—395-4814

Revision of a Currently Approved Collection

(1) Larry E. Miesse, 202/633-4312
(2) Immigration and Naturalization Service, Department of Justice
(3) Arrival/Departure Record
(4) I-94
(5) On occasion
(6) Individuals or households. This form is part of the manifest requirements of Sections 231 and 235 of the I&N Act, and evidence when issued of alien registration as required by Section 264 of the I&N Act.
(7) 14,000,000 respondents
(8) 924,000 burden hours
(9) Not applicable under 3504(h)
(10) Robert Veeder—395-4814

(1) Larry E. Miesse, 202/633-4312
(2) Bureau of Justice Statistics, Department of Justice
(3) National Crime Survey (NCS) Pretest
(4) NCS-1, NCS-2, NCS-7, NCS-500
(5) On occasion
(6) Individuals or households. The National Crime Survey is a program for gathering, analyzing, publishing and disseminating statistics on the kinds and amounts of crime committed against households and individuals throughout the United States. Respondents include persons 12 years or older living in 200 households.
(7) 200 respondents
(8) 66 burden hours
(9) Not applicable under 3504(h)
(10) Robert Veeder—395-4814

Larry E. Miesse,

Agency Clearance Officer.

[FR Doc. 85-13332 Filed 6-3-85; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Amendment to Consent Decree Pursuant to the Clean Air Act; Chattanooga Coke and Chemicals Co., Inc.

In accordance with Departmental policy, 28 CFR 50.7 notice is hereby given that on May 10, 1985, a proposed Amendment to a Consent Decree in *United States* v. *Chattanooga Coke and Chemicals Company, Inc.*, Civil Action No. 1-81-323 was lodged with the United States District Court for the Eastern District Court for the Eastern District of Tennessee. The original consent decree set for the requirements for Chattanooga Coke to install proper pollution control equipment and compliance with emission limitations at several sources of air pollution. The proposed amendment to the Consent Decree concerns adjustments in the final compliance schedules and requirements set forth in the original decree and also adds new sections regarding penalties.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Chattanooga Coke and Chemicals Company Inc.*, (E.D. Tenn., Civil Action No. 1-81-323) D.J. No. 90-5-2-1-137.

The proposed Amendment to consent decree may be examined at the office of the United States Attorney, 359 U.S. Courthouse and Post Office Building, Chattanooga, Tennessee 37402 and at the Region IV Office of the Environmental Protection Agency, 345 Courtland Street, Atlanta, Georgia 30365. Copies of the Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth and Pennsylvania Avenue NW., Washington, D.C. 20530. A copy of the proposed Amendment to the Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section,

Land and Natural Resources Division of the Department of Justice.

F. Henry Habicht II,

Assistant Attorney General; Land and Natural Resources Division.

[FR Doc. 85-13340 Filed 6-3-85; 8:45 am]

BILLING CODE 4410-10-M

Lodging of Consent Judgment Pursuant to Clean Air Act; Martin Muffler Sales; Inc.

In accordance with Department of Justice policy, 28 CFR 50.7, notice is hereby given that on May 16, 1985, a proposed consent judgment in *United States* v. *Martin Muffler Sales, Inc.* (N.D. Illinois) was lodged with the United States District Court for the Northern District of Illinois. Under the terms of the proposed consent judgment, Martin Muffler Sales Inc. is required to warn its employees not to tamper with catalytic converters, to display notices to warn customers not to request such services, to offer to replace the fifteen converters at issue in the case without cost, and to pay a civil penalty of $12,500.

The Department of Justice will receive comments for a period of thirty (30) days from the date of this publication relating to the proposed consent judgment. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Martin Muffler Sales, Inc.*, D.J. Ref. #90-5-2-1-733.

The proposed consent judgment may be examined at the Office of the United States Attorney, Room 1500-S, 219 South Dearborn Street, Chicago, Illinois 60604; the Region V Office of the Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois, 60704; and the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1535, Ninth Street and Pennsylvania Avenue NW., Washington, D.C. 20530. A copy of the proposed consent judgment may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy of the proposed consent judgment, refer to the case, proposed consent judgment and D.J. Reference number.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 85-13341 Filed 6-3-85; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Modified Final Judgment (on Consent) Pursuant to the Clean Air Act; Quick Roll Leaf Manufacturing Co.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed modified final judgment (on consent) in *United States* v. *Quick Roll Leaf Manufacturing Company*, Civil Action No. CV 83-0349, has been lodged in the United States Court for the Eastern District of New York.

The proposed modified final judgment (on consent) concerns discharges of pollutants from Quick Roll Leaf's plant in Elmhurst, New York. The proposed modified final judgment (on consent) requires the defendant by June 1, 1985 to reduce emissions at the Elmhurst site by 56%. The proposed modified final judgment (on consent) also requires the defendant to complete construction of a new facility and permanently cease any solvent emitting operations at the Elmhurst facility by March 1, 1987. In addition, the proposed modified final judgment (on consent) provides for stipulated penalties in the event that the defendant fails to comply with the terms of the proposed modification.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed modified final judgment (on consent). Comments should be addressed to the Assistant Attorney General for the Land and Natural Resources Division, Department of Justice, Washington D.C. 20530, and should refer to *United States* v. *Quick Roll Leaf Manufacturing Company*, D.J. Ref. No. 90-5-2-1-586.

The proposed modified final judgment (on consent) may be examined at the Office of the United States Attorney, U.S. Courthouse, 225 Cadman Plaza East, Brooklyn, New York and at the Region 2 Office of the Environmental Protection Agency, 26 Federal Plaza, Room 900, New York, New York. Copies of the propsed modified final judgment (on consent) may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue NW., Washington D.C. 20530. A copy of the proposed modified final judgment (on consent) may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please refer to the referenced cases and enclose a check in the amount of $3.00 (10 cents per page reproduction cost) made payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division, Department of Justice.

[FR Doc. 85-13342 Filed 6-3-85; 8:45 am]

BILLING CODE 4410-01-M

Attorney General's Commission on Pornography Open Meeting; Correction

The original Notice of Meeting appeared on page 21671 in the Federal Register of May 28, 1985.

The following information should have been noted.

Approximately 20 seats will be available for the public (including media representatives) on a first-come, first-served basis at the meeting on June 18, 1985. Approximately 150 seats will be available for the public (including 40 seats reserved for media representatives) on a first-come, first-served basis at the hearings on June 19 and June 20, 1985.

May 28, 1985

Henry Hudson,

Commission Chairman.

[FR Doc. 85-13411 Filed 6-3-85; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Manufacturer of Controlled Substances Registration; Aerojet Strategic Propulsion Co.

By Notice dated January 22, 1985, and published in the Federal Register on January 30, 1985; (50 FR 4282), Aerojet Strategic Propulsion Company, Highway 50 at Hazel Avenue, P.O. Box 156599C, Sacramento, California 95813, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of Tetrahydrocannabinols (7370), a basic class of controlled substance listed in Schedule I.

No comments or objections have been received. Therefore, pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: May 20, 1985.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Division Control: Drug Enforcement Administration.

[FR Doc. 85-13359 Filed 6-3-85; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Withdrawal; Marion Laboratories, Inc.

On November 1, 1984, the Drug Enforcement Administration published a Notice of Application in the Federal Register (Vol. 49, No. 213, pg 44031) stating that Marion Laboratories, Inc., Analytical Systems, Inc., Division, 23162 La Cadena Drive, Laguna Hills, California 92653, had sumbitted an application for registration as a bulk Manufacturer of the basis classes of control substances listed below.

Drug	Schedule
1-phenylcyclohexylamine (7460)	II
Ecgonine (9180)	II

On February 25, 1985, the Drug Enforcement Administration was advised that Marion Laboratories, Inc., Analytical Systems, Inc., Division, 23162 La Cadena Drive, Laguna Hills, California 92653 wished to withdraw its application for registration as a bulk Manufacturer of 1-phenylcyclohexylamine (7460) and Ecgonine (9180).

The application having been withdrawn any proceedings relating to the application have been terminated and the publication withdrawn.

Dated: May 20, 1985.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control Drug Enforcement Administration.

[FR Doc. 85-13361 Filed 6-3-85; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances Application; Smithkline Chemicals

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on January 24, 1985, Smithkline Chemicals, Division Smithkline Corporation, 900 River Road, Conshohocken, Pennsylvania 19428 made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
4-methoxyamphetamine (7411)	I
Amphetamine (1100)	II
Phenylacetone (8501)	II

Any other such applicant and person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than July 5, 1985.

Dated: May 20, 1985.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc, 13358 Filed 6-3-85; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances Application; Sterling Drug; Inc.

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on January 18, 1985, Sterling Drug, Inc., 33 Riverside Avenue, Rensselear, New York 12144 made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule II controlled substance Pethidine (meperidine) (9230).

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than (30 days from publication).

Dated: May 20, 1985.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 85-13360 Filed 6-3-85; 8:45 am]

BILLING CODE 4410-09-M

Importation of Controlled Substances; Notice of Application

Pursuant to Section 1008 of the Controlled Substance Import and Export Act (21 U.S.C. 958(h)], the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II, and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registration for the bulk manufacturer of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on January 3, 1985, McNeilab Inc., DBA First State Chemical Company Inc., 803 East Fourth Street, Wilmington, Delaware 19801, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Raw opium (9600)	II
Concentrate of poppy straw (9670)	II

As to the basic classes of controlled substances listed above for which application for registration has been made, any other applicant therefor, and any existing bulk manufacturer registered therefor, may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form a prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than July 5, 1985.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e) and (f). As noted in a previous notice at 40 FR 43745-46 (September 23, 1975), all applicants for

registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (e) and (f) are satisfied.

Dated: May 28, 1985.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control Drug Enforcement Administration.

[FR Doc. 85-13384 Filed 6-3-85; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated April 2, 1985, and published in the **Federal Register** on April 11, 1985, (50 FR 14324), Janssen Inc., P.O. Box JPH, State Road 933 KM 01 Mamey Ward, Gurabo, Puerto Rico 06658, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of Sufentanil (9740), a basic class of controlled substance listed in Schedule II.

No comments or objections have been received. Therefore, pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of the Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: May 28, 1985.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 85-13385 Filed 6-3-85; 8:45 am]

BILLING CODE 4410-09-M

Quotas for Controlled Substances in Schedules I and II

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of Established 1985 Aggregate Production Quotas.

SUMMARY: This notice establishes 1985 aggregate production quotas for controlled substances in Schedules I and II which will be used as analytical standards.

DATE: This order is effective upon publication.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, 1405 Eye Street, NW., Washington, D.C. 20537, Telephone (202) 633-1366.

SUPPLEMENTARY INFORMATION: Section 306 of the Controlled Substances Act (21 U.S. Code, Section 826) requires the Attorney General to establish aggregate production quotas for all controlled substances in Schedules I and II each year. This responsibility has been delegated to the Acting Administrator of the Drug Enforcement Administration pursuant to § 0.100 of Title 28 of the Code of Federal Regulations.

On February 12, 1985, a notice of the proposed 1985 aggregate production quotas for certain controlled substances in Schedules I and II was published in the **Federal Register** (50 FR 5826). All interested parties were invited to comment on or object to these proposed aggregate production quotas on or before March 14, 1985. No comments or objections were received.

Pursuant to Sections 3(c)(3) and 3(E)(2)(B) of Executive Order 12291, the Director of the Office of Management and Budget has been consulted with respect to these proceedings.

The Acting Administrator hereby certifies that this matter will have no significant impact upon small entities within the meaning and intent of the Regulatory Flexibility Act, 5 U.S. Code 601, et seq. The establishment of annual aggregate production quotas for Schedules I and II controlled substances is mandated by law and by the international commitments of the United States. Such quotas impact predominantly upon major manufacturers of the affected controlled substances.

Therefore, under the authority vested in the Attorney General by Section 306 of the Controlled Substances Act of 1970 (21 U.S. Code, Section 826) and delegated to the Acting Administrator of the Drug Enforcement Administration by Section 0.100 of Title 28 of the Code of Federal Regulations, the Acting Administrator hereby orders that the aggregate production quotas for 1985 for the following controlled substances, expressed in grams of anhydrous base, be established as follows:

Basic Class	1985 Aggregate Production Quotas
Schedule I:	
Lysergic acid diethylamide	4
Lysergic acid methylpropylamine	2.5
Schedule II:	
Benzoylecgonine	50
Phencyclidine	100

John C. Lawn,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 85-13382 Filed 6-3-85; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The OMB and Agency form numbers, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small businesses or organizations are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance

Officer, Paul E. Larson, Telephone 202-523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW, Room S-5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Nancy Wentzler, Telephone 202-395-6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Extension

Employment and Training Administration
Governor's Coordination and Special Services Plan (GCSSP)
1205-0203; ETA RC 53
Biennially
State or local governments
57 respondents; 569 hours

The GCSSP, required by section 121(a)(2) of the JTPA, will provide the Department with a general description of each State's plans for the operation of the JTPA program and its utilization of its JTPA resources.

Signed at Washington, D.C. this 30th day of May 1985.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 85-13418 Filed 6-3-85; 8:45 am]

BILLING CODE 4510-30-M

Employment and Training Administration

[TA-W-15,929]

Acme Boot Co., Inc., Cookeville, TN; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on April 22, 1985 in response to a worker petition received on April 17, 1985 which was filed by the United Rubberworkers of America on behalf of workers at the Acme Boot Company, Cookeville, Tennessee.

A negative determination applicable to the petitioning group of workers was issued on December 18, 1984 (TA-W-15,454). No new information is evident which would result in a reversal of the Department's previous determination. Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C. this 28th day of May 1985.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 85-13417 Filed 6-3-85; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-15,697]

The International Treasury Office of U.S. Steel Corp., New York, NY; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on January 27, 1985 in response to a worker petition received on January 14, 1985 which was filed on behalf of workers at the International Treasury Office of U.S. Steel Corporation, New York, New York.

An active certification covering the petitioning group of workers remains in effect (TA-W-15,452). Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C. this 28th day of May 1985.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 85-13416 Filed 6-3-85; 8:45 am]

BILLING CODE 4510-30-M

Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance; Edwards Manufacturing Co., et al.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor hearin presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period May 20, 1985—May 24, 1985.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In the following case, the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not cintribute importantly to worker separations at the firm.

TA-W-15,778; Edwards Manufacturing Co., Augusta, ME

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-15,809; United Uniform Manufacturing Co., Memphis, TN

Separations from the subject firm resulted from a transfer of production to another domestic facility.

TA-W-15,776; Puritan Fashions (Calvin Klein Jeans), El Paso, TX

Puritan Fashions (Calvin Klein Jeans), El Paso, TX was a marketing and distribution center and was not engaged in the petition of an article. The subject firm is not affiliated with any corporate facilities which have workers who are currently under a certification for trade adjustment assistance.

Affirmative Determinations

TA-W-15,771; Wolverine World Wide, Inc., Factory C, Big Rapids, MI

A certification was issued covering all workers of the firm separated on or after January 22, 1984 and before December 3, 1984.

TA-W-15,782; Smith-Corona, Cortland, NY

A certification was issued covering all workers of the firm separated on or after February 11, 1984.

TA-W-15,777; Copeland Corp., Fostoria, OH

A certification was issued covering all workers of the firm separated on or after February 6, 1984 and before August 27, 1984.

TA-W-15,841; U.S. Steel Mining Co., Inc., Maple Creek Mine Complex, New Eagle, PA

A certification was issued covering all workers of the firm separated on or after August 1, 1984 and before April 9, 1985.

I hereby certify that the aforementioned determinations were issued during the period May 20, 1985—May 24, 1985. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. during normal

business hours or will be mailed to persons who write to the above address.

Dated: May 28, 1985.

Glenn M. Zech,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 85-13415 Filed 6-3-85; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 14, 1985.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 14, 1985.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 28th day of May 1985.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (Union/workers or former workers of)—	Location	Date received	Date of petition	Petition No.	Articles produced
Eaton Corporation, Transmission Div. (workers)	Shelbyville, TN	5/16/85	4/17/85	TA-W-16,024	Transmissions, truck, heavy, duty.
Bolivar Management Corp (ACTWU)	Bolivar MO	5/15/85	5/13/85	TA-W-16,025	Casual wear, ladies.
Arrow Shirt Co. (ACTWU)	Elysburg, PA	5/22/85	5/17/85	TA-W-16,026	Shirts, men's.
Arrow Company of Pennsylvania (ACTWU)	Lewistown, PA	5/22/85	5/17/85	TA-W-16,027	Shirts, men's.
Bear Creek Uranium (workers)	Casper, WY	5/21/85	5/15/85	TA-W-16,028	Uranium—mining.
Butler County Mushroom farm (USWA)	West Winfield, PA	5/20/85	5/16/85	TA-W-16,029	Mushrooms.
Butler County Mushroom Farm (USWA)	Worthington, PA	5/20/85	5/16/85	TA-W-16,030	Mushrooms.
Damsel Mfg. Co., Inc. (workers)	West Hazleton, PA	5/21/85	5/17/85	TA-W-16,031	Sportwear, girls.
David Crystal Sportswear, Inc. (ILGWU)	East Newark, NJ	5/3/85	4/23/85	TA-W-16,032	Sportwear, ladies.
Formfit Rogers, Inc. (USWA)	Lafayette, TN	5/16/85	5/16/85	TA-W-16,033	Lingerie.
General Dynamics Corp., Quincy Shipbuilding Div. (IUMSWA).	Quincy, MA	5/22/85	5/21/85	TA-W-16,034	Vessels, barges, tankers.
Bethlehem Steel Corp. (ASWA)	Johnstown, PA	5/16/85	5/15/85	TA-W-16,035	Carbon and alloy bars, rods, and wires.
Briarcliff Mills, Inc. (workers)	Atlanta, GA	5/16/85	5/13/85	TA-W-16,036	Blouses, ladies.
Conemaugh & Black Lick Railroad (USWA)	Johnstown, PA	5/16/85	5/13/85	TA-W-16,037	Railroad service—Johnstown, PA plant of Bethlehem Steel Crop.
LGAM Mfg Co., Inc. (ILGWU)	Woodsfield, OH	5/16/85	5/14/85	TA-W-16,038	Blouses, shirts, and dresses.
Litton Microwave Cooking Products (company)	Minneapolis, MN	5/17/85	5/6/85	TA-W-16,039	Microwave ovens and component parts.
Ohio Brass Company (workers)	Barberton, OH	5/16/85	5/1/85	TA-W-16,040	Fired porcelain insulators, suspension insulators, procelain bushings.
Quality Components, Inc. (workers)	St. Marys, PA	5/15/85	5/9/85	TA-W-16,041	Electronic components.
Red Cedar Products Inc. (workers)	Amanda Park, WA	5/17/85	5/14/85	TA-W-16,042	Shakes—roofing and siding.
Roosevelt Mills, Inc. (workers)	Rockville, CT	5/17/85	5/9/85	TA-W-16,043	Sweaters.
Shapely, Inc. (ACTWU)	Cincinnati, OH	5/22/85	5/20/85	TA-W-16,044	Blouses, dresses, ladies.
U.S. Steel Corp., Homestead Works (USWA)	Homestead, PA	5/20/85	5/16/85	TA-W-16,045	Steel, slab, plate, structurals.
Zenith Electronics Corp., Plant #2 (Electronic Wkrs of America).	Chicago, IL	5/6/85	4/29/85	TA-W-16,046	Sequence machine and VCD.
American Forest Products Co (United Brotherhood of Carpenters).	North Fork, CA	5/13/85	5/7/85	TA-W-16,047	Lumber and other wood products.
Louis Walker Co., Inc. (ILGWU)	Los Angeles, CA	5/15/85	5/9/85	TA-W-16,048	Coats and suites, ladies.
Revere Copper Products, Inc., Rome Plant (Mechanic's Educational Society of America).	Rome, NY	5/22/85	5/10/85	TA-W-16,049	Fabricates copper and brass.

[FR Doc. 85-13414 Filed 6-3-85; 8:45 am]

BILLING CODE 4510-30-M

LEGAL SERVICES CORPORATION

Announcement of Transfer of LSC Grant for Eligible Migrant Clients Residing in the State of Pennsylvania

AGENCY: Legal Services Corporation.

ACTION: Notice.

SUMMARY: The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Statute 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant contract, or project . . ."

The Legal Services Corporation (LSC) hereby publicly announces the transfer of responsibility of the LSC grant for legal services to eligible migrant clients residing in the State of Pennsylvania from Camden Regional Legal Services, Inc. to Community Legal Services, Inc.

DATE: All comments related to this action must be received by the Office of Field Services within thirty (30) calendar days of publication of this notice.

FOR FURTHER INFORMATION CONTACT: Gail D. Francis, Manager, Grants and Budget Unit, Office of Field Services, Legal Services Corporation, 733 Fifteenth Street, NW., Washington, D.C. 20005, (202) 272-4080.

SUPPLEMENTARY INFORMATION: Legal Services Corporation, the national, independent organization charged with implementing the federally-funded system of legal services for low income people, announces the transfer of responsibility of the LSC grant for legal services to eligible migrant clients residing in the State of Pennsylvania

from Camdem Regional Legal Services, Inc. (CRLS), located in Camdem, New Jersey to Community Legal Services, Inc. (CLS), located in Philadelphia, Pennsylvania.

Since the inception of the LSC grant for these purposes in 1980, CRLS has subcontracted the provision of this legal services work to CLS. All parties mutually agree that beginning in grant year 1985 the LSC grant will be made directly to CLS. The annualized level of Legal Services Corporation's funding for this service area is $55,438 for calendar year 1985.

All groups and persons interested in submitting comments related to this transfer should submit such to the Legal Services Corporation, Grants Assistant, Grants and Budget Unit, Office of Field Services 733 Fifteenth Street NW., Washington, D.C. 20005, before the deadline.

Peter Broccoletti,

Acting Director, Office of Field Services.

[FR Doc. 85-13362 Filed 6-3-85; 8:45 am]

BILLING CODE 6820-35-M

NATIONAL COMMUNICATIONS SYSTEM

Industry Executive Subcommittee of the National Security Telecommunications Advisory Committee; Meeting

A meeting of the Industry Executive Subcommittee (IES) of the National Security Telecommunications Advisory Committee (NSTAC) will be held on Tuesday June 18, 1985. The meeting will be held at the MITRE Corporation, 1820 Dolley Madison Boulevard, McLean, VA 22102. Registration will begin at 8:30 a.m. and the meeting will start at 9 a.m. The agenda is as follows:

A. Opening remarks.

B. Administrative remarks.

C. Briefings on industry and Government activities.

Any person desiring information about the meeting may telephone (202) 692-9274 or write the Manager, National Communications System, Washington, D.C. 20305-2010.

D. C. Brown,

Captain, USN, Chief, Joint Secretoriat.

[FR Doc. 85-13378 Filed 6-3-85; 8:45 am]

BILLING CODE 3510-05-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Music Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Jazz Fellowships Section) to the National Council on the Arts will be held on June 17-20, 1985, from 9:15 a.m.-6:30 p.m. in room 714 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506.

A portion of the meeting will be open to the public on June 20, from 2:00-4:00 p.m. to discuss policy and to review guidelines.

The remaining sessions of this meeting on June 17-19, 1985, from 9:15 a.m.-6:30 p.m. and on June 20, from 9:15 a.m.-1:00 p.m. and from 4:15-6:30 p.m. are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence ot the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682-5433.

Yvonne M. Salune,

Acting Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 85-13354 Filed 6-3-85; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Recommendation Responses; Availability of

NATIONAL TRANSPORTATION SAFETY BOARD—RESPONSES TO SAFETY RECOMMENDATIONS

Recommendation No.	Respondent	Date	Subject
Aviation			
A-82-61	Helicopter Assn. Internat'l	Apr. 24, 1985	Flight Instructor Training.
A-84-131	Federal Aviation Admin. (FAA)	Apr. 24, 1985	Revision of flight attendant manuals (Pilgrim Airlines).
A-85-18	U.S. Dept. of Commerce	Apr. 22, 1985	Supplemental Aviation Reporting Stations in Alaska.
A-85-7	FAA	Apr. 30, 1985	Compressor rear frames of General Electric CF6-50 and -45 engines; inspection, repair and removal procedures.
A-83-61	FAA	Apr. 30, 1985	Susceptibility of hydraulic tubing in Swearingen SA226-TC Metro Airplanes to stress.
A-76-84	FAA	May 10, 1985	Bird ingestion in turbine engines.
A-84-60	FAA	May 10, 1985	Engine compartment designs of certificated multiengine helicopters.
A-83-45	FAA	May 2, 1985	Government/industry task force on passenger safety information.
A-82-118	FAA	May 7, 1985	Minimum airspeeds and flight precautions during flight in icing conditions.
A-83-8 and -9	FAA	May 7, 1985	Wing fuel tank quick drains on Piper PA-11, -12, -18, -18A, -20, -22, and J-3 and PA-25 airplanes.
A-83-50 and -51	FAA	May 18, 1985	Wheel brake pressure on Piper Aircraft.
A-84-85	FAA	Mar. 21, 1985	Strut housing assembly inspection; replacement of landing gear upper bearing retaining pins.
A-83-37 through -43	FAA	Apr. 18, 1985	Air traffic controller error.
A-85-11 through -14	FAA	May 14, 1985	Ultralight vehicles; standards, registration, certification, rules.
A-81-27	FAA	Mar. 8, 1985	Emergency exits.
A-79-93	FAA	Mar. 8, 1985	Stabilizer out-of-trim warning system; Beech 99 and Beech 100 flight manuals.
A-83-34	FAA	Mar. 19, 1985	Compliance with Cessna Service Letter SE69-16.
A-84-125 through -127	FAA	Mar. 19, 1985	IFR clearance or discrete transponder codes for flights departing San Luis Obispo County Airport.
A-83-54	FAA	Mar. 19, 1985	Visual scanning techniques.
A-82-36	FAA	Mar. 29, 1985	Stage 1 high pressure turbine disk.

NATIONAL TRANSPORTATION SAFETY BOARD—RESPONSES TO SAFETY RECOMMENDATIONS—Continued

Recommendation No.	Respondent	Date	Subject
A-83-57	FAA	Apr. 10, 1985	Beech series 19, 23, and 24 airplanes; compliance with Beechcraft Service Instructions No. 1095, Revision 1.
A-84-86	FAA	Apr. 8, 1985	Twin-engine airplanes equipped with Prestolite 100-ampere alternators.
A-95-8 through -10	FAA	Apr. 10, 1985	Mooney Aircraft Models M20B, M20C, M20D, M20E, M20F, M20G, M20J (201) and M20K (231).
A-83.56	FAA	Apr. 12, 1985	Mitsubishi MU-2 airplanes; engines, fuel system, autopilot, flight control systems; handling characteristics during IMC landing approaches.
A-84-79 through -81	FAA	Apr. 12, 1985	Cessna induction airbox assembly; evidence of cracking, chafing, or looseness.
A-84-59	FAA	Apr. 2, 1985	Detroit Diesel Allison 250-C30 engine; turbine rotor structural design.
A-83-14 through -26	FAA	Apr. 2, 1985	Low Level Wind Shear Alert System; Automatic Terminal Information Service; radar, pilot reports; aircraft operational limitations; flight director systems; other sources of weather information.
A-82-32, -33	FAA	Apr. 3, 1985	Wing spar tension bolt assembly design.
A-84-110	FAA	Mar. 21, 1985	Sikorsky S-76A fuselage-mounted engine containment shield installation.
A-84-116 through -122	FAA	Mar. 11, 1985	Management of Air Route Traffic Control Centers to minimize conflict/hazards during high density traffic.
A-83-64	FAA	Mar. 8, 1985	Cessna Aircraft tank selector valve linkages.
A-82-64 through -66	FAA	Mar. 12, 1985	Digital flight data recorder systems.
A-84-108	U.S. Dept. of Commerce	Mar. 26, 1985	Warnings of clear air turbulence by area forecasts, SIGMET's, or other communication.
A-84-5 and -6	Canadian Aviation Safety Board	Mar. 6, 1985	Aircraft fire and cabin safety.
A-84-123 and -124	Civil Aviation Administration	Apr. 18, 1985	Call-out procedures to include actual speed deviation.
Highway			
H-85-4 through -6	New Mexico Dept. of Education	Apr. 17, 1985	School bus stopping at railroad crossings.
H-83-48	Tennessee Dept. of Education	Apr. 23, 1985	Fire extinguisher installment on school buses.
H-84-59, -66 and -93	Federal High Admin.	Apr. 30, 1985	Issuance of On-Guards to alert drivers to safety threats.
H-84-94 and -95	Arkansas State Police	Jan. 17, 1985	Drawing of blood samples in serious or fatal accidents.
H-83-52	Indiana Dept. of Highways	Jan. 9, 1985	Safety seats.
H-84-19	Missouri Div. of Highway Safety	Jan. 22, 1985	Sobriety checkpoints.
H-83-52	State of Nebraska	Jan. 22, 1985	Child restraints.
H-83-52	Oklahoma Highway Safety	Jan. 24, 1985	Child restraints.
H-84-8	Michigan Dept. of Trans.	Jan. 22, 1985	National School Bus Safety Standards.
H-83-39	Ohio Dept. of Highway Safety	Jan. 30, 1985	School bus/safety standards.
H-84-76	Massachusetts Registry of Motor Vehicles	Jan. 14, 1985	School bus safety.
H-84-11 through -14, 19-21, 22-25.	Commonwealth of Virginia	Jan. 28, 1985	Sobriety checkpoints.
H-84-8	State of Maryland	May 1, 1985	Schoolbus construction standards.
H-85-4 through -6	New Jersey Dept. of Education	Apr. 12, 1985	School bus driver training programs
H-84-4 through -6	Missouri Dept. of Elementary and Secondary Education.	Mar. 29, 1985	School bus driver training programs.
H-82-25	Federal Highway Admin.	Mar. 5, 1985	Citizen's band radios.
H-84-77 through -86	Alaska Dept. of Public Safety	Mar. 4, 1985	Preliminary breath tests.
H-83-53 through -59	Nat'l Highway Traffic Safety Administration	Mar. 14, 1985	Child restraint systems.
H-83-68	Federal Highway Admin.	Mar. 13, 1985	Prohibition on falsification related to medical certification for commercial drivers.
H-83-40, -41, -46, -47, and -48.	Commonwealth of Virginia	Mar. 27, 1985	School bus safety.
H-85-5	Oklahoma State Dept. of Education	Mar. 29, 1985	School bus safety; railroad crossings.
H-84-72	Ohio Dept. of Highway Safety	Mar. 26, 1985	Maneuverability testing of noncommerical bus operators.
H-83-39 through -41	Vermont Agency of Transportation	Mar. 21, 1985	Child restraints.
H-84-61 and -62, -63	Trailways Lines, Inc.	Mar. 25, 1985	Operating speeds, seat belt use; devices to minimize dozing at the wheel by drivers.
H-85-4 through -6	W. Virginia Dept. of Education	Mar. 28, 1985	School bus safety.
H-84-91 and -92	Internat'l Assn. of Chiefs of Police, Inc.	Feb. 14, 1985	Blood alcohol testing for truck drivers involved in serious accidents.
H-84-66 through -68	Federal Highway Admin.	Feb. 22, 1985	Motor carriers involved in interstate commerce.
H-83-39 through -41	State of New Mexico	Feb. 11, 1985	School bus accidents.
H-81-76	Federal Highway Admin.	Feb. 14, 1985	Requirement for drivers of trucks to have an additional State or national license to transport bulk hazardous materials.
H-84-11 through -14	Pennsylvania Dept. of Transportation	Feb. 8, 1985	Sobriety checkpoints/administrative license action.
H-81-72 and -73	Federal Highway Admin.	Feb. 13, 1985	Identification of crossings with passive warning devices used by trucks transporting bulk hazardous materials.
H-83-39 and -40	Oklahoma Dept. of Education	Feb. 1, 1985	School bus safety.
H-83-39 and -40	N. Dakota Dept. of Public Instruction	Feb. 4, 1985	Seat belt laws/small bus safety.
H-85-1 through -3	California Yearly Meeting of Friends	Apr. 3, 1985	Bus safety.
H-83-34	National Tank Truck Carriers	Jan. 18, 1985	Upgraded driver training; certification criteria.
H-84-72	Idaho Transportation Dept.	Apr. 3, 1985	Examinations and road tests for non-commercial bus drivers.
H-84-77 through-86	Honolulu Executive Chambers	Apr. 10, 1985	Sobriety tests, DUI laws.
H-84-5	New York Dept. of Transportation	Apr. 3, 1985	School bus safety.
H-83-46 and -47	Maryland Executive Dept.	Apr. 2, 1985	School bus safety.
H-83-10 through -15	California Dept. of	Apr. 2, 1985	Tunnel emergency response procedures.
H-83-39 through -41	State of West Virginia	Apr. 18, 1985	Small school buses/vans; restraint systems, safety standards, safety belts for drivers.
H-84-77 through -86	State of Nevada	Apr. 18, 1985	Preliminary breath tests, DUI laws.
H-85-4 through -6	Florida Dept. of Education	Apr. 3, 1985	School bus safety.
H-84-77 through -86	Commonwealth of Kentucky	Nov. 2, 1985	Preliminary breath tests, DUI laws.
H-84-5 through -10	Tennessee Dept. of Safety	Apr. 16, 1985	School bus safety.
H-85-4 through -6	Tennessee Dept. of Education	Mar. 29, 1985	School bus safety.
H-85-4 through -6	North Carolina State Board of Education	Mar. 28, 1985	School bus safety.
Marine			
M-83-76	State of Washington	May 1, 1985	Legislation to define level of legal intoxication for recreational boaters; toxicological tests in the event of boating fatalities.
M-82-48 and -49	Commonwealth of Massachusetts	Apr. 25, 1985	Standing orders for cadet and officer engineering watches.
M-85-25	U.S. Dept. of Commerce	Apr. 30, 1985	Navigation guides for mariners traveling the Western Rivers.
M-85-14 through -17	U.S. Coast Guard	Apr. 24, 1985	Bascule bridge spans; controls of navigation lights, indicators for bridgetenders; protective tender systems to prevent damage by vessel superstructures.
M-85-1 through -5	U.S. Coast Guard	May 6, 1985	Steering gear standards, failure/risk, inspection, and rules.
M-84-31 through -34	U.S. Coast Guard	Jan. 25, 1985	Bilge pumps to prevent flooding; coercion of offshore supply vessel masters to take vessels to sea against their better judgement; requirements for applicants for original master's licenses.
M-84-24 through -29	U.S. Coast Guard	Feb. 26, 1985	Passenger vessels.
M-85-7 through -11	Mobil Oil Corporation	Apr. 30, 1985	Ships' steering gear.
M-84-48	Department of Transportation	Mar. 26, 1985	Mobile offshore drilling units; personnel qualifications and manning regulations.
M-83-76 and -77	New Mexico Natural Resources Department	Apr. 2, 1985	Alcohol abuse; recreational boating.
M-83-89 through -92	American Bureau of Shipping	Jan. 24, 1985	Hydroster model MS-800-TE-1 steering gear system.

NATIONAL TRANSPORTATION SAFETY BOARD—RESPONSES TO SAFETY RECOMMENDATIONS—Continued

Recommendation No.	Respondent	Date	Subject
M-84-43	American Bureau of Shipping	Feb. 12, 1985	Towing systems on all ocean towing vessels.
M-85-6	American Bureau of Shipping	Feb. 13, 1985	Steering gear inspections; proper installation of cotter pins.
M-84-67 throught -69	Graham & Jones (for ARCO China)	Mar. 5, 1965	Continuous 24-hour radio watch.
Pipeline			
P-85-4 and -5	Washington Gas Light Co	May 7, 1985	Pipe surface preparation at bonding points; conductivity of bonding cables.
P-83-8 and -9, -31 through 34.	Washington Gas Light Co	Mar. 5, 1985	Employee training; adherence to established safety procedures.
P-84-30	National Research Council	Feb. 25, 1985	Surface and subsurface use of land adjacent to pipelines that transport hazardous commodities.
Railroad			
R-85-35	New York Dept. of Trans	Apr. 24, 1985	Subway fires.
R-83-60 and -61	Soo Line Railroad Co	Apr. 30, 1985	Spot checks of employees for drug/alcohol abuse.
R-82-15, -18, -55, -57, -70, -72, -74.	Washington Metropolitan Area Transit Authority.	Mar. 18, 1985	Training for rail transportation supervisors, operators, controllers, passenger education for emergency procedures; emergency escape windows; carborne monitors.
R-83-60 and -61	Chicago & Illinois Midland Railway Co.	Mar 18, 1985	Spot checks for drug/alcohol abuse.
R-84-60, -61, -33 and -34	Seaboard System Railroad	Mar. 11, 1985	Spot checks for drug/alcohol abuse; employee training.
R-84-20	Indian Railways	Mar. 19, 1984	Chrome Vanadium Alloy.
R-84-40, -13 and -14	Amtrak	Apr. 10, 1985	Baggage retention capability; seat securement, food service equipment; traction motor bearings, heat sensors; inspection of assembly and maintenance of locomotive traction assemblies.
R-85-18	General Electric	Apr. 1, 1985	Design and maintenance of traction motor support bearings.
R-84-40, -42, -25	Amtrak	Apr. 1, 1985	Baggage retention capability, seat securement, food service equipment; storage batteries; emergency lighting features.
R-84-12	Association of American	Apr. 5, 1985	Inspection procedures and operating practices in connection with the movement of maintenance-of-way rolling stock in revenue freight trains.
R-85-19, -20	Conrail	Apr. 3 1985	Cab signals.
R-85-17	Electro-Motive	Apr. 12, 1985	Traction motor support bearing.
R-84-25 -28, -30	Metro-Dade Transportation Admin	Mar. 14, 1985	Train speeds, stopping distances; contrast of numbers and background of speed signs; standard operating procedures for emergencies.
R-84-37 through -43	Amtrak	Mar. 13, 1985	On-time incentive programs; locomotive speed tapes; railroad/highway grade crossings; passenger car interior fixtures; speed recordor and overspeed devices; storage batteries; engine crew performance.
R-84-47 through -51	Seaboard System Railroad	Mar. 11, 1985	Tank cars containing residual quantities of hazardous materials classified as "empty"; emergency information; engineers' performance.
R-81-37	Norfolk Southern	Mar. 15, 1985	Advance approach aspects.
R-83-35 through -45	Maryland Dept. of Licensing and Regulation	Mar. 22, 1985	Supervisory checks for crew alcohol use; alcohol abuse rules, education.
R-84-37 through -43	Illinois Central Gulf	Apr. 23, 1985	On-time incentive programs; locomotive speed recorder tapes; railroad/highway grade crossings; design deficiencies in passenger car interiors; overspeed devices; storage batteries; engine crew performance.
R-85-15 and -16	Association of American Railroads	Apr. 9, 1985	Traction motor support bearings.
R-84-2	Association of American Railroads	Mar. 20, 1985	Procedures for installation and maintenance of high strength alloy rails.
Intermodal			
I-85-1	State of Colorado	Feb. 19, 1985	Designation of routes for the transportation of hazardous materials.
I-84-5	U.S. Coast Guard	May 15, 1985	Standards for design and construction of chemical protective suits.

The Safety Board has revised the format of these notices of response letters to reduce significantly the cost of preparing and printing this information. Single copies of these response letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Please include respondent's name, date of letter, and recommendation number(s) in your request. The photocopies will be billed at a cost of 14 cents per page ($1 minimum charge).

Catherine T. Kaputa,

Alternate Federal Register Liaison Officer.

May 24, 1985.

[FR Doc. 85-13297 Filed 6-3-85; 8:45 am]

BILLING CODE 7533-01-M

NUCLEAR REGULATORY COMMISSION

Bi-Weekly Notice; Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Pub. L. 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular bi-weekly notice. Pub. L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This bi-weekly notice includes all amendments issued, or proposed to be issued, since the date of publication of the last monthly notice which was published on May 21, 1985 (50 FR 20969) through May 24, 1985.

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of

a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

By July 5, 1985, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If a final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Branch Chief*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the local public document room for the particular facility involved.

Arkansas Power & Light Company, Docket No. 50-368, Arkansas Nuclear One, Unit 2, Pope County, Arkansas

Date of amendment request: March 13, 1985.

Description of amendment request: The proposed amendment would revise Table 3.8.1 of the Technical Specifications (TS) related to containment electrical penetration conductor overcurrent protective devices. The proposed TS changes are:

1. Additional containment penetration conductor overcurrent protective devices would be added to the table.

2. Reactor Coolant System sample line solenoid valves and their associated overcurrent protective devices would be deleted from the table.

3. Primary and backup overcurrent protective devices for pressurizer heaters would be changed.

4. An equipment designation would be changed.

5. Typographical errors would be corrected.

Containment electrical penetration conductor overcurrent protective devices are essentially circuit breakers which help to maintain containment integrity by preventing overcurrent from damaging penetrations given single random failures of overcurrent protective devices.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). The examples of actions that are considered not likely to involve significant hazards considerations include: (ii) A change that constitutes an additional limitation, restriction, or control not presently included in the TS: for example, a more stringent surveillance requirement. (vi) A change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan (SRP): for example, a change resulting from the application of a small refinement of a previously used calculational model or design method. (i) A purely administrative change to TS: for example, a change to achieve consistency throughout the TS, correction of an error, or a change in nomenclature.

Based on our preliminary review of the proposed changes, it appears that each of the changes is similar to one of the above examples. Item 1 of the proposed changes clearly matches Example (ii) in that additional overcurrent protective devices would be added to the table and tested periodically for operability. These additional overcurrent protective devices resulted from plant modifications pertaining to Low Temperature Overpressure Protection, Pressurizer Spray Valve, and Hydrogen Purge Valves. Item 2 appears to be similar to Example (vi) in that even though the periodic surveillance testing which would demonstrate the operability of the primary and backup overcurrent devices associated with the Reactor Coolant System sample line solenoid valves would not be performed, two redundant fuses in series would prevent overcurrents from damaging penetration and, therefore, the design of the circuit associated with this containment electrical penetration would still meet the acceptable criteria in SRP Section 8.3.1. Item 3 appears to be similar to Example (vi) in that the licensee's engineering analysis indicates that designating certain overcurrent protective devices located outside the containment as the backup devices instead of the present backup devices located inside the containment would enhance the devices' ability to meet the acceptable criteria in SRP Section 8.3.1 based on the fact that the penetration would not be protected should a fault occur between the protective devices in containment and the penetration under the present TS, whereas it would be protected under the proposed TS. Items 4 and 5 appear to be similar to Example (i) in that Item 4 involves a change in nomenclature and Item 5 involves correction of typographical errors.

Based on the foregoing, the NRC staff proposes to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Attorney for licensee: Nicholas S. Reynolds, Esq., Bishop, Liberman, Cook, Purcell and Reynolds, 1200 Seventeenth Street, NW., Washington, D.C. 20036.

NRC Branch Chief: James R. Miller.

Commonwealth Edison Company, Docket Nos. 50–373 & 50–374, La Salle County Station, Units 1 & 2, La Salle County, Illinois

Date of amendment request: April 17, 1985.

Description of amendment request: The proposed amendments to Operating License NPF–11 and Operating License NPF–18 would revise the La Salle Units 1 and 2 Technical Specifications to: (1) (a) Include a minimum critical power ratio limit on Figure 3.2.3–1, to show when the end-of-cycle reactor pump trip is inoperable, (b) correct typographical and administrative errors, and (c) reduce valve stroke times to reflect actual valve times; (2) indicate Specification 3.0.4 does not apply by permitting reactor startup as long as assurance is provided that a system inoperable would not affect plant safety; (3) clarify the Technical Specifications to indicate required action on failure of either "Full In" or "Full Out" reactivity position indicating system and surveillance or "Full In" indication; (4) correct the time allowed for decay of liquid effluent batch releases for lower limit. of detection; (5) change the method of calculating the kilowatt capacity for electric heaters in the control room emergnecy make-up train required by Specification 4.7.2.d.4 for surveillance; and (6) incorporate the reactor core isolation cooling differential temperature instrumentation with respect to set points, surveillance requirements and required remedial actions.

The following descriptions are proposed changes to the designated pages of Unit 1 and 2 Technical Specifications:

1. (a) ¾ 2–5 for Unit 1 and ¾ 2–5 for Unit 2. The Minimum Critical Power Ratio curve is updated to reflect when end-of-life reactor pump trip is inoperable. This portion of the curve was inadvertently omitted and is in accordance with the provisions of the Standard Technical Specifications for General Electric Boiling Water Reactors.

(b) ¾ 3–87, ¾ 6–9, ¾ 6–27 for Unit 1 and ¾ 3–87, ¾ 4–3, ¾ 6–8, ¾ 6–30, ¾ 7–21, ¾ 7–28 for unit 2.

Minor changes of a nonsubstantive nature (e.g. misspelled words, a word repeated, change for clarification, etc.) are proposed for these pages.

(c) ¾ 6–24, ¾ 6–26 for Unit 1 and ¾ 6–27, ¾ 6–29 for Unit 2. On these pages licensee proposes to reduce stroke valve timing and add stroke times to reflect actual times measured during surveillances.

2. ¾ 6–22, ¾ 6–24, ¾ 6–25, ¾ 6–26, ¾ 6–27, ¾ 6–28, ¾ 6–32, ¾ 6–34 for Unit 1 and ¾ 6–25, for Unit 1 and ¾ 6–25, ¾ 6–27, ¾ 4–28, ¾ 6–29, ¾ 6–30, ¾ 6–31, ¾ 6–35, ¾ 6–37 for Unit 2. These pages would be clarified to indicate Specification 3.0.4 is not applicable to permit reactor startup since the plant safety is not degraded when an automatic isolation valve is inoperable but secured in its isolation position. The question of continued operation only becomes one of other requirements and not based on primary containment integrity.

3. 3/4 1–13, 3/4 1–14 for Unit 1 and 3/4 1–13, 3/4 1–14 for Unit 2.

Clarification is proposed for these pages to indicate that when "Full In" or "Full Out" position indicators for control rods are not functioning action is required. These changes are in accordance with the Standard Technical Specifications for General Electric Boiling Water Reactors for action to be taken and surveillance requirements to ensure operability of the "Full In" indication.

4. 3/4 11–4 for Unit 1 and 3/4 11–4 for Unit 2.

This change is to correct the time used in determining liquid effluent. The licensee indicates that a sample taken and analyzed prior to release of the batch discharge tank effluent, is a representative measurement of the radioactive material to be released and need not be decay corrected back to sample time.

5. 3/4 7–6 for Unit 1 and 3/4 7–6 for Unit 2.

This change is to correct the method of calculating the kilowatt capacity for electric heaters in the control room emergency make-up train required by Specification 4.7.2.d.4 for surveillance by correcting for bus voltage variations.

6. 3/4 3–9, 3/4 3–12, 3/4 3–13, 3/4 3–14, 3/4 3–16, 3/4 3/18, 3/4 3–21 for Unit 1 and 3/4 3–9, 3/4 3–12, 3/4 3–13, 3/4 3–14, 3/4 3–16, 3/4 3/18, 3/4 3–21 for Unit 2.

The reactor core isolation cooling pump room differential temperature isolation is being added to be part of the isolation actuation instrumentation of these pages of the Technical Specifications. This includes setpoints, surveillance requirements and required remedial actions.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards for a no significant hazards consideration determination by providing certain examples (48 FR 14870). The example of actions involving no significant hazards consideration include:

(i) A purely administrative change to the Technical Specifications, correction of errors or changes in nomenclature (ii) a change that constitutes an additional limitation, restriction or control not presently included in the Technical specifications; and (vi) a change which either may result in some increase to the probability or consequences of a previously analyzed accident or may reduce in some way a safety margin but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan.

The changes proposed in the application for amendment are encompassed by these examples in the following ways:

(1) Changes requested by the licensee in the following items are administrative in nature and are encompassed by the Commission's example (i) of actions not likely to involve significant hazards consideration. Item 1(b).

(2) The following proposed changes in the Technical Specifications are requirements more conservative than in the present Units 1 and 2 requirements and are encompassed by the Commission's example (ii) of action not likely to involve significant hazards consideration: Items 1(a), 1(c), 3, 5, 6.

(3) The following proposed changes in the Technical Specifications are requirements which may result in some increase to the probability or consequences of a previously analyzed accident or may reduce in some way a safety margin, but the results of changes are within acceptable criteria so that these changes fall within the Commissions example (vi) of action not likely to involve significant hazards considerations: Items 2, 4.

Therefore, since the application for amendments involves proposed changes that are similar to examples for which no significant hazards consideration exists, the staff has made a proposed determination that the application for amendments involves no significant hazards considerations.

Local Public Document Room Location: Public Library of Illinois Valley Community College, Rural Route No. 1, Ogelsby, Illinois 61348.

Attorney for licensee: Isham, Lincoln and Burke, Suite 840, 1120 Connecticut Avenue, NW., Washington, DC 20036.

NRC Branch Chief: W.R. Butler.

Consolidated Edison Company of New York, Docket No. 50–247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of amendment request: April 10, 1985.

Description of amendment request: The proposed change amends the Technical Specifications to revise the limits for total nuclear peaking factor (F_Q) and accumulator water volume to accommodate plant operation at steam generator tube plugging levels up to 25%. The proposed change would permit a maximum F_Q of 2.32 up to 25% steam generator tube plugging with nominal accumulator volumes of 822 ft^3.

Basis for proposed no significant hazards consideration determination: Consistent with the Commission's criteria for determining whether a proposed amendment to an operating license involves no significant hazards considerations, 10 CFR 50.92 (48 FR 14871), the proposed revisions to the Technical Specifications will not involve a significant increase in the probability or consequences of an accident previously evaluated; or create the possibility of a new or different kind of accident from any previously evaluated, or involve a significant reduction in margin of safety. Consolidated Edison's amendment application includes an evaluation of the effects of a postulated loss-of-coolant accident with 25% steam generator tube plugging. Consolidated Edison's evaluation concludes that the proposed revision provides a margin of safety which complies with the acceptance criteria of 10 CFR 50.46 and Appendix K to 10 CFR Part 50.

The staff expects to agree with Consolidated Edison's evaluation. Therefore, the staff proposes to determine that the requested action would involve no significant hazards considerations.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Attorney for licensee: Thomas J. Farrelly, Esq., 4 Irving Place, New York, New York 10003.

NRC Branch Chief: Steven A. Varga.

Consumers Power Company, Docket No. 50–155, Big Rock Point Plant, Charlevoix County, Michigan

Date of amendment request: January 7, 1985 as revised on March 14, 1985 which supersede previous requests dated June 4, 1976 and November 13, 1978.

Description of amendment request: The amendment proposes changes to the Technical Specifications and Bases to incorporate Radiological Effluent Technical Specifications (RETS) which would meet the requirements of Appendix I to 10 CFR Part 50. The amendment would approve new Technical Specification (TS) sections defining limiting conditions for operation and surveillance requirements for radioactive liquid and gaseous effluent monitoring, for effluent concentrations and for treatment of liquid, gaseous and solid wastes. It would also incorporate into the TS the bases that support the operation and surveillance requirements.

The proposed amendment also includes certain administrative changes which relocate and reformat but do not modify technical specifications which are not part of RETS, but were necessary in order to incorporate RETS into the existing technical specifications.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 for determining whether license amendments involve significant hazards considerations by providing certain examples (48 FR 14870, April 6, 1983). One of the examples (ii) of actions not likely to involve significant hazards considerations relates to a change that constitutes additional restrictions or

controls not presently included in the Technical Specifications.

The Commission, in a revision to Appendix I to 10 CFR Part 50, required licensees to improve and modify their radiological effluent systems in a manner that would keep releases of radioactive material to unrestricted areas during normal operation as low as is reasonably achievable. In complying with this requirement, it became necessary to add additional restrictions and controls to the Technical Specifications to assure compliance. This caused the proposed addition of the Appendix I Technical Specifications described above. The Commission proposes to determine that the application does not involve a significant hazards consideration since incorporation of the Appendix I Technical Specifications constitutes additional restrictions and controls that are not currently included in the Technical Specifications.

Another example (i) included in the Commission's guidance (48 FR 14780) of actions not likely to involve significant hazards considerations relates to a purely administrative change to Technical Specifications; for example, a change to achieve consistency throughout the Technical Specifications, correction of an error or a change in nomenclature. The administrative changes described above fit this example. On this basis the staff proposes to determine that the requested administrative changes do not involve a significant hazards consideration.

Local Public Document Room location: North Central Michigan College, 1515 Howard Street, Petoskey, Michigan 49770.

Attorney for licensee: Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Branch Chief: John A. Zwolinski.

Duke Power Company, Dockets Nos. 50-269, 50-270 and 50-287, Oconee Nuclear Station, Units Nos. 1, 2 and 3, Oconee County, South Carolina

Date of amendment request: March 19, 1985, as supplemented on May 1, 1985.

Description of amendment request: The proposed amendments would revise the Station's common Technical Specification (TS) 3.7.2(e)2 to allow a one-time extension of the allowable period of inoperability from 24 hours to 10 days per battery for the installation of new Keowee batteries and battery racks.

The Keowee Hydro Station is the source of two independent on-site emergency power paths for Oconee Nuclear Station. They are part of the Auxiliary Electrical System that assures safe reactor operation and provides for continuing availability of engineered safety features systems. The Keowee Hydro Station is in the process of ordering replacement cells for both of the Keowee 125 VDC power system batteries. The changeout of the batteries and the racks cannot be accomplished during the 24-hour time period currently allowed by TS 3.7.2(e)2. However, the replacement can be accomplished in a maximum of 10 days for each of the two batteries.

Each Keowee hydro unit is provided with a separate 125 VDC power system consisting of a 125 VDC battery charger, a 125 VDC battery, and a metal clad distribution center. A bus tie arrangement (two breakers in series) is provided between the distribution centers. This arrangement allows one Keowee 125 VDC power system battery to be removed for testing/servicing while maintaining the capability to supply the required DC loads of both Keowee units with the remaining battery. The licensee will also perform a load test on the battery train that will remain in service to show it will be available to perform its intended function.

The capability of each existing Keowee battery is substantially greater than the DC load requirements of both units. Therefore, operating with one Keowee 125 VDC power system battery out of service and the distribution center tie breakers closed for a period of 10 days per battery will allow for installation of the replacement batteries and racks while involving no additional significant safety hazard.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the determination of significant hazards considerations by providing certain standards (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

1. An accident previously evaluated includes a loss of coolant accident happening concurrently with a loss of offsite power and one train of the on-site emergency power source inoperable. However, the probability of all three of these events occurring simultaneously is very small. Extending the allowable period of inoperability from 24 hours to 10 days per battery would increase the probability of this accident; however, because of the very low probability of such an accident, such increase does not add significantly to the overall probability of the accident. Therefore, the proposed amendment involves operation of the facility that would involve a very slight increase in the probability of a previously-evaluated accident. In addition, the licensee will perform, as a compensatory measure for added assurance, a surveillance test beyond what is routinely required. The licensee will perform a load test on the battery train that will remain in service to show it will be available to perform its intended function. Prior to installing the new battery, the licensee will start up both Keowee units with only one battery in service. The second battery outrage will not begin until the newly installed battery is verified operable. Thus, the proposed amendment will not significantly increase the probability of a previously analyzed accident.

The consequences of an accident previously evaluated remain unchanged because the nature of the accident is not affected by the number of days of inoperability.

2. Since neither the operability nor the configuration of the battery is a direct causative factor in creating an accident, its inoperability will not create a new or different type of accident.

The inoperability of one Keowee battery, when the busses are tied together, will not affect the operability of either Keowee Unit and that one battery is capable of carrying the required Keowee emergency DC load. Since this one time, temporary inoperability of one battery system will not prevent the other battery system from performing its safety function, the margin of safety is not significantly reduced.

The discussion above indicates that operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated, or create the possibility of a new or different kind of accident from any accident previously evaluated, or involve a significant reduction in a margin of safety.

Based on the above, the staff proposes to determine that these proposed amendments do not involve a significant hazards consideration.

Local Public Document Room location: Oconee County Library, 501

West Southbroad Street, Walhalla, South Carolina.

Attorney for licensee: J. Michael McGarry, III, Bishop, Liberman, Cook, Purcell and Reynolds, 1200 17th Street, NW., Washington D.C. 20036.

NRC Branch Chief: John F. Stolz.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Dockets Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant, Units Nos. 1 and 2, Appling County, Georgia

Date of amendment request: March 11, 1985.

Description of amendment request: These amendments would modify the Technical Specifications to remove Administrative Subsection 6.15.1 concerning the completion requirement for the environmental qualification program.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). An example of actions involving no significant hazards considerations is Example (vii), a change to make a license conform to changes in the regulations where the license change results in very minor changes to facility operations clearly in keeping with the regulations.

Subsection 6.15.1 requires that the environmental qualification program for Hatch Units 1 and 2 be completed by June 30, 1982. 10 CFR 50.49 suspended the equipment qualification compliance deadline. Removal of this subsection to make the Technical Specifications consistent with the regulation is similar to Example (vii). Therefore, since the application for amendment involves a proposed change that is similar to an example for which no significant hazards considerations exist, the Commission has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Applying County Public Library, 301 City Hall Drive, Baxley, Georgia.

Attorney for licensee: G.F. Trowbridge, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington D.C. 20036

NRC Branch Chief: John F. Stolz.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Dockets No. 50–366, Edwin I. Hatch Nuclear Plant, Unit No. 2, Appling County, Georgia

Date of amendment request: February 15, 1985, as supplemented May 14, 1985.

Description of amendment request: The amendment would modify the Technical Specifications to (1) change the required channel calibration setpoint of the control rod scram accumulator (hydraulic control unit (HCU) accumulator) pressure alarm from 955±15 psig to greater than or equal to 940 psig; and (2) revise the identification number listed in Table 3.3.3–1 for the automatic depressurization system (ADS) timer.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probabiliy or consequences of an accident previously evaluated; or (2) create the possiblity of a new or differnt kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The purpose of the HCU pressure alarm is to warn of a decreasing HCU pressure condition while preserving enough HCU pressure to meet scram time requirements for the associated control rod when reactor pressure is low. The lower limit of the tolerance band is the important limit that is preserved by the channel calibration. This limit, 940 psig, is unaffected by the proposed change.

Probabilities and consequences of analyzed accidents will not be increased by this change since the minimum HCU alarm pressure setting is unchanged. No new accident types are created since no new modes of operation are involved. The margin of safety as defined in the Technical Specificatons will not be reduced by this change since it will allow the pressure alarms to be set at a value which reduces the likelihood of instrument drift compromising the lower limit of 940 psig.

The Commission concludes that the proposed change is consistent with the three standards as discussed above.

The Commission has also provided guidance concerning the application of the standards in 10 CFR 50.92 by providing examples (48 FR 14870). An example of actions involving no significant hazards considerations is Example (i), an amendment involving a purely administrative change to Technical Specifications. The revision of the identification number for the ADS timer is similar to this example.

Accordingly, the Commission proposes to make a preliminary determination that these changes do not involve a significant hazards consideration.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

Attorney for licensee: G.F. Trowbridge, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: John F. Stolz.

Northeast Nuclear Energy Company et al., Docket No. 50–336, Millstone Nuclear Power Station, Unit 2, New London County, Connecticut

Date of amendment request: May 18, 1983.

Description of amendment request: The proposed changes to the Technical Specifications (TS) would made the TS conform with the final rule on environmental qualification (EQ) of electric equipment important to safety for nuclear power plants (10 CFR 50.49), published in the **Federal Register** on January 21, 1983 (48 FR 2729) as amended on November 19, 1984. The proposed changes would delete the June 30, 1982 deadline date and remove the requirement for a central qualification file. The removal of the requirement for a central equipment qualification file in no way reduces the requirements of 10 CFR 50.49(j) to maintain an auditable record of equipment qualification documentation.

Basis for proposed no significant hazards consideration determination: In determining the no significant hazards consideration, we have used the guidance provided by the Commission (48 FR 14870). Example (vii) pertains to a change which would make a license conform to changes in the regulations, where the change results in very minor changes clearly in keeping with the regulations. The proposed action is within the purview of Example (vii) because only minor changes are involved in making the license in compliance with the EQ rule described above. Therefore, the proposed change would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from

any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. Accordingly, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room location: Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut.

Attorney for licensee: Gerald Garfield, Esq., Day, Berry and Howard, One Constitution Plaza, Hartford, Connecticut 06103.

NRC Branch Chief: James R. Miller.

Northeast Nuclear Energy Company et al., Docket No. 50-336, Millstone Nuclear Power Station, Unit 2, New London County, Connecticut

Date of amendment request: March 29, 1985.

Description of amendment request: The proposed change to the Technical Specifications would delete diesel generator surveillance requirement 4.8.1.1.2.c.5.d. Section 4.8.1.1.2.c.5.d requires verification that on simulated loss of diesel generator:

(1) The loads are shed from the emergency buses,

(2) The emergency buses are reenergized with permanently connected through load sequencers, and

(3) The diesel operates for more than or equal to 5 minutes while its generator is loaded with the emergency load.

These requirements are in excess of the scope outlined in 10 CFR Part 50, Appendix A, General Design Criterion 17 (GDC), and is not consistent with the provisions of GDC-17, Regulatory Guide 1.108 and the NRC Standard Review Plan (8.2 and 8.3.1). The remaining surveillance testing requirements in the Technical Specifications are sufficient to demonstrate full functional operability and independence of the diesel generator units. Specifically, the following tests are specified:

(1) Verifying that on loss of off-site power the emergency buses have been deenergized and that the loads have been shed from the emergency buses.

(2) Verifying that on loss of off-site power the diesel generators start from ambient condition on the auto-start signal, the emergency buses are energized with permanently connected loads, the auto-connected emergency loads are energized through the load sequencer, and the system operates for five minutes while the generators are loaded with the emergency loads.

The remaining surveillance test requirements demonstrate the capability of the on-site power system to perform its required functions and conformance with GDC-17 and NRC regulatory guide criteria.

Basis for proposed no significant hazards consideration determination: Because the remaining required surveillance test requirements are in full conformance with GDC-17 and NRC regulatory guide criteria and the full functional operability and independence of the diesel generator units can be demonstrated by these remaining tests, the proposed change would not involve a significant increase in the probability or consequences of an accident previously evaluated. For these same reasons, the proposed change would not create the possibility of a new or different kind of accident from any accident previously evaluated or involve a significant reduction in a margin of safety. Accordingly, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room location: Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut.

Attorney for licensee: Gerald Garfield, Esq., Day, Berry and Howard, One Constitution Plaza, Hartford, Connecticut 06103.

NRC Branch Chief: James R. Miller.

Northeast Nuclear Energy Company et al., Docket No. 50-336, Millstone Nuclear Power Station, Unit 2, New London County, Connecticut

Date of amendment request: April 4, 1985.

Description of amendment request: The proposed change to the Technical Specifications (TS) revises TS Section 4.5.2.c.3 to delete a reference to the physical description (solid granular) of the trisodium phosphate dodecahydrate (TSP). Because the "solid granular" description can be confusing, the proposed change deletes these words.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for making a no significant hazards consideration determination (48 FR 14870). Example (i) of this guidance is a purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature. The proposed change of deleting reference to a physical description in order to avoid misinterpretation is purely administrative in nature and similar to example (i) described above. Furthermore, the functional requirement of Specification 4.5.2.c.3 is not changed and the proposed change does not adversely affect safety. Therefore, the proposed change would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. Accordingly, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room location: Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut.

Attorney for licensee: Gerald Garfield, Esq., Day, Berry and Howard, One Constitution Plaza, Hartford, Connecticut 06103.

NRC Branch Chief: James R. Miller.

Power Authority of the State of New York, Docket No. 50-286, Indian Point Unit No. 3, Westchester County, New York

Date of amendment request: March 27, 1985.

Description of amendment request: The amendment would revise the Technical Specifications, Sections 2.1, 2.3, and 3.1 to allow plant operation with an equivalent steam generator tube plugging level of up to 30% in any steam generator provided the equivalent average plugging level in all steam generators is less than or equal to 24%. By letter dated January 13, 1983, the licensee submitted an amendment application requesting that the average steam generator equivalent tube plugging level be raised to 24% (this change would have permitted plugging level greater than 24% in individual steam generators). The application was supported by an Appendix K Emergency Core Cooling System (ECCS) reanalysis. By letter dated January 13, 1984, the staff issued Amendment No. 48 granting up to 24% maximum tube plugging level for each steam generator only. The licensee's March 27, 1985 submittal provides the analyses of asymmetric tube plugging among steam generators which would permit the greater plugging levels for individual steam generators.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). One of the examples of actions not likely to involve a significant hazards consideration relates to a change which either may result in some increase to the probability or consequences of a

previously analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan (Example vi). The proposed change presents an evaluation of the effects of asymmetric tube plugging among steam generators on the consequences of accident analyses performed in Chapter 14 of the Indian Point FSAR. The licensee's evaluation finds the consequences of allowing an equivalent steam generator tube plugging level of up to 30% in any steam generator provided the equivalent average plugging level in all steam generators is not greater than 24% are within the allowable limits of 10 CFR Part 50, Appendix K, and the Accident Analyses Section of the Standard Review Plan, (Section 15). It is expected that our final evaluation will agree with the licensee's conclusions. Therefore, the staff proposes to determine that the amendment does not involve a significant hazards determination.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

NRC Branch Chief: Steven A. Varga.

Sacramento Municipal Utility District, Docket No. 50–312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of amendment request: June 20, 1984, as revised February 25, 1985.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TSs) to (1) change the closure times of several containment isolation valves in Table 3.6.1 and (2) require that leak rate testing of the equipment hatch and fuel transfer tube seals after each opening be performed prior to when containment integrity is required by Specification 3.6.1.

Basis for proposed no significant hazards consideration determination: The proposed changes to the maximum closure times for several containment isolation valves resulted from valve modifications required by IE Bulletin 79–01B. The proposed TS change will not adversely affect the containment functional performance, and therefore will not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident; or (3) involve a significant reduction in a margin of safety.

The current TSs require that the equipment hatch and fuel transfer tube seals be tested after each opening. However, the licensee states and we agree that testing when containment integrity is not required is not necessary. Therefore, the licensee proposes to revise the TSs so that testing of the equipment hatch and transfer tube seals is required after each opening prior to when containment integrity is required. The proposed change will not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident; or (3) involve a significant reduction in a margin of safety.

Based on the foregoing, the Commission's staff proposes to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: Sacramento City-County Library, 828 I Street, Sacramento, California.

Attorney for licensee: David S. Kaplan, Sacramento Municipal Utility District, 6201 S Street, P.O. Box 15830, Sacramento, California 95813

NRC Branch Chief: John F. Stolz.

Sacramento Municipal Utility District, Docket No. 50–312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of amendment request: October 29, 1984.

Description of amendment request: The proposed amendment requests changes to the Technical Specification surveillance of the emergency power to the pressurizer heaters to allow using the Nuclear Service Buses to energize the pressurizer heaters to demonstrate that the emergency power supply is operable.

Basic for proposed no significant hazards consideration determination: During each refueling interval, a test is performed on the pressurizer heaters to demonstrate their operability. The performance of the Emergency Pressurizer Heaters can be verified either through a normal power supply or an emergency power supply. Rancho Seco's Nuclear Service Buses 4160A and 4160B have the capability for providing normal or emergency power to the pressurizer heaters. Rancho Seco's current Technical Specifications call for transferring power from the normal to the emergency power supply to energize the heaters. In the revised Technical Specifications, the licensee proposes to demonstrate that the emergency power supply for the pressurizer heaters is operable by using the Nuclear Service Buses to energize the heaters. Utilizing the Nuclear Service Buses to energize the heaters for serveillance testing each refueling interval will not change plant operation nor the design of the plant. Therefore, the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. On this basis, the Commission's staff proposes to determine that the amendment application involves no significant hazards consideration.

Local Public Document Room location: Sacramento City-County Library, 828 I Street, Sacramento, California.

Attorney for licensee: David S. Kaplan, Sacramento Municipal Utility District, 6201 S Street, P.O. Box 15830, Sacramento, California 95813.

NRC Branch Chief: John F. Stolz.

Southern California Edison Company et al, Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Date of Amendment Request: December 9, 1983 (Reference Proposed Change PCN–155), April 27, 1984 (Reference PCN–111 and 155), and November 30, 1984 (Reference PCN–96)

Introduction: The proposed changes would revise Technical Specifications 3/4.3.2, "Instrumentation—Engineered Safety Features Actuation System Instrumentation," 3/4.7.1.5, "Plant Systems—Main Steam Line Isolation Valves," and 3/4.11.2, "Radioactive Effluents—Gaseous Effluents," and add new Technical Specifications 3/4.11.2.7, "Radioactive Effluents—Auxiliary Boiler," and 3/4.4.10, "Reactor Coolant System—Reactor Coolant Gas Vent System." The proposed changes are summarized as follows:

1. PCN–96 would revise Technical Specification (TS) Sections 3/4.3.2 "Engineered Safety Feature Actuation System Instrumentation" and 3/4.7.1.5 "Main Steam Line Isolation Valves." The proposed change would revise Table 3.3–5 of T.S. Section 3/4.3.2 to: a) provide increased response time testing requirements for the containment spray isolation valves, main steam line isolation valves and auxiliary feedwater isolation valves; b) include only those steam, blowdown, sample and drain isolation valves required to be response

time tested on a main steam isolation signal; c) include response time testing requirements for the main steam isolation valves, main feedwater isolation valves and minipurge valves; d) include the noncritical loop component cooling water valves not required to be response time tested on safety injection actuation signal; e) include the power-operated auxiliary feedwater isolation valves HV 4762 and HV 4763 in the response time testing requirements on a main steam isolation signal, following implementation of Design Change Package (DCP) 195J; and f) correct a typographical error in item 5.a.(3), valve number HV 4054. The proposed change would revise T.S. Section 3/4.7.1.5 to increase the main steam isolation valve closure time consistent with the changes specified in a) above.

2. PNC-111 would revise Technical Specification 3/4.11.2, Table 4.11-2, "Radioactive Gaseous Waste Sampling and Analysis Program", and to add a new Technical Specification 3.11.2.7, "Radioactive Effluents, Auxiliary Boiler", in order to facilitate an exemption to 10 CFR 20.305 via technical specification changes to allow disposal of radioactively contaminated reactor coolant pump (RCP) motor oil, turbine building sump and other waste oil by incineration.

3. PCN-155 is a request to add a new Technical Specification Section 3/4.4.10, "Reactor Coolant Gas Vent System". The proposed change satisfies the Generic Letter 83-37 requirements for technical specifications for reactor coolant system vents.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870) of amendments that are considered not likely to involve significant hazards considerations.

Example (i) relates to a purely administrative change to technical specifications: For example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature. Example (ii) relates to a change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications: for example, a more stringent surveillance requirement. Example (vi) relates to a change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptance criteria with respect to the system or component specified in the Standard Review Plan: for example, a change resulting from the application of a small refinement of a previously used calculational model or design method.

Each of the proposed changes is similar to one of the examples of 48 FR 14870. Therefore, it is proposed that these changes do not involve significant hazards considerations. A more detailed description of each proposed change to the technical specifications and a discussion of how each change is similar to one of the examples of 48 FR 14870 follows.

Specific Changes Requested and Basis for Proposed No Significant Hazards Determination

1. Proposed Change PCN-96

The proposed change would revise Technical Specifications (TS) 3/4.3.2, "Instrumentation—Engineered Safety Features Actuation System Instrumentation," and 3/4.7.1.5, "Plant System—Main Steam Line Isolation Valves." T.S. 3/4.3.2 requires engineered safety feature actuation system (ESFAS) operability and specifies ESFAS instrumentation functional testing, calibration, channel checks and response time testing to verify such operability. Table 3.3-5, "Engineered Safety Features Response Times," of Section 3/4.3.2 contains engineered safety feature (ESF) response time testing requirements which verify the assumptions used in the safety analysis. In particular, Table 3.3-5 requires that 1) the main feedwater isolation valves (MFIV) and valves associated with a main steam isolation function to be tested on a main steam isolation signal (MSIS), 2) the auxiliary feedwater isolation valves (AFIV) be tested on an emergency feedwater actuation signal (EFAS), and 3) the containment spray isolation valves (CSIV) be tested on a containment spray actuation signal (CSAS). Section 3/4.7.1.5 requires main steam isolation valve (MSIV) operability and prescribes a surveillance requirement to demonstrate such operability by verifying the specified valve closure time.

The proposed change would make the following changes to T.S. 3/4/3.2 Table 3.3-5: (1) Increase the CSIV response time from 21.0 to 23.0 seconds; (2) increase the MSIV response time from 5.9 to 6.9 seconds; and (3), increase the AC train AFIV response time testing requirement on an EFAS without emergency diesel generator sequence loading delays for SIAS from 42.7 to 52.7 seconds. In addition, the proposed change would revise Table 3.3-5 to include: (1) Only those steam blowdown sample and drain isolation valves required to be response time tested on a MSIS; (2) MFIV and minipurge isolation valve (MPIV) response time testing requirements on a containment isolation actuation signal (CIAS); (3) the noncritical loop component cooling water (CCW) valves not required to be response time tested on a safety injection actuation signal (SIAS); and (4) the power operated auxiliary feedwater isolation valves to be added to the auxiliary feedwater system.

Also, a typographical error in Table 3.3-5 would be corrected by the proposed change. Valve Number HV-5054 of Item 5.a.(3) is changed to the correct designation, HV-4054. The proposed change would revise T.S. 3/4.7.1.5 by increasing the MSIV closure time from 5.0 to 6.0 seconds.

Each part of the proposed change is similar to either example (i) of 48 FR 14870 in that the proposed change is a purely administrative change to Technical Specifications or example (vi) of 48 FR 14870 in that the proposed change may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan (SRP).

SRP Section 7.3, "Engineered Safety Features System," requires that the actuated equipment response be consistent with the assumed in the plant safety analysis. Since each proposed change previously discussed, with the exception of the typographical error correction, maintains the ESF response time testing requirements within the boundaries established by the Final Safety Analysis Report (FSAR), the proposed changes meet the criteria of SRP Section 7.3 and, therefore, are similar to example (vi) of 48 FR 14870. The proposed increase in CSIV response time is due to the increased isolation valve response time for the main stream line break (MSLB) case with offsite power available (the consequences of the MSLB with loss of offsite power would be unaffected by the increased CSIV response time). The consequences of the proposed increase in CSIV response time for the MSLB with offsite power available remain bounded by those of the MSLB with loss of offsite power.

The proposed increases in MSIV response and closure times have been

shown to be acceptable, principally through the reduction of an excessively conservative steam flow assumption used in the original evaluation of the MSLB scenario. Steam flow through the MSIV was previously represented by a linear model of valve flow area versus time during closing. The MSLB analysis has been revised using typical valve flow area characteristics provided by the manufacturer in order to more accurately represent actual steam flow conditions. The combined effect of the above reduction in flow area conservatism and a 6.0 second valve closure time is a net decrease in the total calculated integrated flow area of over 50%. Therefore, the reactor coolant system (RCS) cooldown and the peak containment pressure and temperature resulting from the most limiting MSLB remain conservatively bounded by existing FSAR analyses.

The proposed change would increase the AFWIV response time, without emergency diesel generator sequence loading delays for SIAS (EFAS), from 42.7 to 52.7 seconds. A review of the existing analyses has been performed which shows that a 10 second increase in the auxiliary feedwater delivery time for the limiting event (loss of normal feedwater with loss of offsite power) does not significantly affect the calculated RCS energy removal. This conclusion supports the proposed increase in AFIV response time for the AC trains to the same value as that for the steam/DC train valves for this event.

The proposed change would revise Table 3.3–5 to include only those steam blowdown sample and drain isolation valves required to be response time tested on a MSIS. Table 3.3–5 currently includes response time testing requirements for the auxiliary feedwater pump turbine steam isolation valves (HV 8200 and HV 8201) and the main steam bypass isolation valves (HV 8202 and HV 8203) on a MSIS. These valves receive a MSIS to close but not serve an active safety-related function. The auxiliary feedwater pump turbine steam isolation valves are pneumatically-operated valves (normally open) which open on a EFAS and fail open on loss of the nonsafety-grade compressed air supply. Consequently, the downstream check valves (rather than HV 8200 and HV 8201) are credited for isolating the intact steam generator from the rupture steam generator under MSLB or main feedwater line break conditions; these check valves are included in the ASME XI, inservice inspection program pursuant to T.S. 4.0.5. Manual action is assumed in isolating a break in the common section of the auxiliary feedwater pump turbine steam line for the limiting high energy line break accident. Actuation of these valves on a MSIS is not required by existing FSAR analyses. Similarly, the MSIV bypass isolation valves are normally closed, close on a MSIS, and fail closed. In the unlikely event that a MSIV bypass isolation valve were to be open during an MSLB, the accident consequences would remain bounded by the MSLB scenario involving single failure of a MSIV (as analyzed in the FSAR). Therefore, the response time testing requirements of valves HV 8200, HV 8201, HV 8202, and HV 8203 on a MSIS are not required to support the accident analyses and would be deleted by the proposed change.

The proposed change would add MFIV, MSIV, and MPIV response time testing requirements on a CIAS to Table 3.3–5, since, as is assumed in the FSAR accident analyses, the MFIV's and MSIV's are required to actuate on a CIAS to maintain peak accident containment pressure within the required limits and the MSIV's are required to close on a CIAS to maintain offsite dose consequences below the required limits.

Consistent with FSAR accident analyses, the proposed change would add to Note 3 of Table 3.3–5 the Train A non-critical component cooling water (CCW) loop containment isolation valves, as valves which receive CIAS, but are not diversely actuated on SIAS. The Train B non-critical CCW loop containment isolation valves are already included in Note 3. The proposed change would add Note 7 to Table 3.3–5 in order to indicate the replacement in the auxiliary feedwater system of two existing manual auxiliary feedwater isolation valves (both normally closed) by two power-operated valves (which are to be normally closed and actuated to close on MSIS and, therefore, are required to be tested on MSIS). The proposed change which corrects the typographical error in Table 3.3–5, Item 5.a.(3) (i.e. Valve Number HV–5054 should be designated as HV–4054) is purely administrative and, therefore, is similar to example (i) of 48 FR 14870.

2. Proposed Change PCN–111

The proposed change would revise Table 4.11–2, "Radioactive Gaseous Waste Sampling and Analysis Program," of Technical Specification 3/4.11.2, "Gaseous Effluents," and would create a new technical specification, T.S. 3.11.2.7, "Radioactive Effluents, Auxiliary Boiler," which concerns the disposal of radioactively contaminated waste oil. T.S. 3/4.11.2 provides the maximum dose rates at which radioactive gaseous effluents may be released into the environment. Table 4.11–2 lists the different types of radioactive gaseous releases and specifies sampling and analysis requirements to verify that dose rates are within the limits. Currently, the auxiliary boiler is not listed in Table 4.11–2 as a radioactive effluent release path, because the boiler burns non-radioactive oil. It is proposed that T.S. 3.11.2.7 be created to provide a method of radioactive waste oil disposal. Slightly contaminated radioactive waste oil (from reactor coolant pumps, etc.) is presently stored on site. T.S. 3.11.2.7 will allow the radioactive oil to be burned in the auxiliary boiler along with regular fuel oil. The resulting exhaust, which contains small amounts of radioactivity, is diluted by a flow of air and released into the environment provided that the amount of radioactivity in the exhaust does not exceed 1% of the technical specification's total dose limit of radioiodines, particulates, and tritium. If the amount of radioactivity in the exhaust does exceed its specified limit, action must be taken to suspend further incineration of the radioactively contaminated gas. The proposed change would also require the addition of auxiliary boiler gaseous release types to Table 4.11–2 or T.S. 3/4.11.2. This will identify the auxiliary boiler as a release path and will specify the sampling and analysis requirements of the waste oil which must be met prior to incineration in order to verify that the dose limit will not be exceeded.

The proposed change is similar to example (vi) of 48 FR 14870 in that while the proposed change may result in some increase in the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, the results of the change are clearly within all acceptance criteria with respect to the system or component specified in the Standard Review Plan.

IE Information Notice No. 83–05, "Obtaining approval for disposing of very-low-level radioactive waste—10 CFR 20.302," states that in accordance with 10 CFR 20.302(a), which concerns methods for obtaining approval of proposed disposal procedures, the Nuclear Regulatory Commission will give consideration to previously unauthorized disposal methods. As an example, IE Informatin Notice No. 83–05 relates that a proposal was approved in which the licensee requested that very-low-level contaminated oil be allowed to burn in the plant's oil fired burners. The above described proposed change prvides T.S. requirements which will

allow slightly radioactive waste oil to be burned in the plant's oil fired auxiliary boilers. Because IE Information Notice No. 83-05 states that the disposal of very-low-level contaminated oil by incineration has previously been approved, the proposed change is consistent with this notice. In addition, the proposed change will maintain the concentration and the dose rate of radioactivity within the limits specified by 10 CFR 20, Appendix B, Table II, Column 1 and 10 CFR 50, Appendix I, respectively. Because the proposed change meets the above criteria, it is similar to example (vi) of 48 FR 14870.

3. Proposed Change PCN-155

The proposed change would add to a new Technical Specification (TS) 3/4.4.10, "Reactor Coolant System—Reactor Coolant Gas Vent System." Generic Letter 83-37 dated November 1, 1983 required licensees to submit technical specifications (TS) for the reactor coolant system vents required by NUREG-0737, "Clarification of TMI Action Plan Requirements." The purpose of T.S. 3/4.4.10 is to specify conditions for the operability of the reactor coolant gas vent system (RCGVS). The RCGVS is a system of multiple interdependent paths provided to exhaust noncondensible gases from the primary system. The limiting condition for operation (LCO) of T.S. 3/4.4.10 delineates the valves required to be operable and those required to be closed such that: (1) the RCGVS is capable of providing at least one vent path from both the reactor vessel head and the pressurizer steam space to either containment or the quench tank, and (2) double isolation is maintained. The action statement specifies that with a valve inoperable, operation may continue until the next cold shutdown, provided that power is removed from the inoperable valve(s) within 4 hours and that all valves which together with the inoperable valve provided double isolation are maintained closed and deenergized within 4 hours. The action statement also provided an exception to T.S. 3.0.4 which states that entry into an operational mode shall not be made unless the conditions of the LCO are met without reliance on provisions contained in the action requirements, would otherwise restrict entry into these modes while relying on the action. The T.S. 3/4.4.10 surveillance requirements require each reactor coolant system (RCS) vent path to be demonstrated operable at least once per 18 months by: (1) Verifying that all manual isolation valves in each vent path are locked in the open position, (2) cycling each valve in the vent path through at least one complete cycle of full travel from the control room during COLD SHUTDOWN or REFUELING, and (3) verifying flow through the reactor coolant vent system vent paths while venting during COLD SHUTDOWN.

The proposed change is similar to example (ii) of 48 FR 14870 in that the proposed change constitutes an additional limitation, restriction, or control not presently included in the technical specifications. By adding T.S. 3/4.4.10 to the technical specifications, the proposed change makes the technical specifications more restrictive and, therefore, is similar to example (ii) of 48 FR 14870.

Based on the above, the NRC staff proposes to determine that the proposed changes described above do not involve a significant hazards consideration.

Local Public Document Room Location: San Clemente Library, 242 Avenida Del Mar, San Clemente, California 92672.

Attorney for licensees: Charles R. Kocher, Esq., Southern California Edison Company, 2244 Walnut Grove Avenue, P.O. Box 800, Rosemead, California 91770 and Orrick, Herrington & Sutcliffe, Attn.: David R. Pogott, Esq., 600 Montgomery Street, San Francisco, California 94111.

NRC Branch Chief: George W. Knighton.

Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of amendment request: April 8, 1985

Description of amendment request: The amendments would modify the Technical Specifications (TS) to:

1. Change the Units 1, 2 and 3 TS to require that for each main steam line there be at least two operable high flow sensors with at least one operable high flow sensor for each of the two isolation trip systems. This would replace the current requirement to simply have two operable sensors for each main steam line.

2. Delete from the Unit 1 TS, the provision of Amendment 109 which permitted temporary inoperability of Containment Air Dilution valve 84-8B.

3. Revise the Units 1, 2 and 3 TS to clarify nomenclature associated with fire protection requirements. Current nomenclatue subjects the TS to the misinterpretation that automatic fire detection and suppression is provided for the cable tunnel from the Turbine Building to the Intake Pumping Station, and for cable trays along the south wall of the Turbine Building. It is neither provided nor required.

4. Revise the Unit 1 TS to indicate that the level switches for the Scram Discharge Instrument Volumes are of an on-off design rather than analog-to-bistable design.

5. Revise the "Table of Testable Penetrations" in the Unit 1 TS to reflect modifications performed during the Cycle 6 outage.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for the application of criteria for no significant hazards consideration determination by providing examples of amendments that are considered not likely to involve significant hazards considerations (48 FR 14870). These examples include: (i) A purely administrative change to Technical Specifications: for example, a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature; (ii) A change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications: for example a more stringent surveillance requirement; and (vii) A change to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations.

Change No. 1 constitutes an additional more restrictive control necessary to assure proper operation of the isolation system. Change No. 1 is therefore encompassed by example (ii).

Change No. 2 removes a temporary (now expired) statement which could be left in the TS indefinitely with no effect, but for which removal is desirable in order to eliminate wording which serves no further purpose. This change is therefore encompassed by example (i).

Change No. 3 revises nomenclature without affecting any Limiting Conditions for Operation, Safety Limits, or Surveillance Requirements, and is therefore encompassed by example (i).

Change No. 4 corrects an error in the descriptive information associated with surveillance requirements, but does not affect the actual requirements. It is therefore encompassed by example (i).

Change 5 updates testing requirements to be consistent with 10 CFR 50 Appendix J local leak rate test requirements. It is therefore encompassed by example (vii).

Since the application for amendment involves proposed changes that are encompassed by the criteria or an example for which no significant hazards consideration exists, the staff has made a proposed determination that

the application involves no significant hazards consideration.

Local Public Document Room location: Athens Public Library, South and Forrest, Athens, Alabama 35611.

Attorney for licensee: H.S. Sanger, Jr., Esquire, General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E 11B 33C, Knoxville, Tennessee 37902.

NRC Branch Chief: Domenic B. Vassallo.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment request: February 1, 1985.

Description of amendment request: (1) Use of a Fifth Standby Diesel Generator. Limiting conditions for operation at Sequoyah Units 1 and 2 require all four separate and independent diesel generator units to be operable. If one of the four diesels is in an inoperable status for more than 72 hours because of repairs, both nuclear units must be shut down. The licensee has built a fifth diesel at Sequoyah and requests that the fifth diesel serve as a replacement for any of the existing diesels in order to provide unrestricted operation of both nuclear units. (2) Change in Fire Hose Stations. The licensee requests the removal of three unneccessary fire hose stations that were installed to protect the auxiliary essential raw cooling water system. This system has been taken our of operation and superseded by the essential raw cooling water system. Also, the addition of fire hose stations is requested for the new fifth diesel generator building which is similar to the other diesel generator building. (3) Revise Table 4.8.1 of the Technical Specifications on test schedule to comply with NRC Generic Letter 84–15, dated July 2, 1984, Proposed Staff Actions To Improve and Maintain Diesel Generator Reliability; this request is deferred pending the completion of the NRC review on a generic basis.

Basis for proposed no significant hazards consideration determination: The Commission has provided certain examples (48 FR 14870) of actions likely to involve no significant hazards considerations. The two requests involved do not match any of those examples. However, the staff has reviewed the licensee's requests and has determined that installation of the fifth diesel and addition of fire hose stations will not (1) involve a significant increase in the probability or consequences of an accident previously evluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety because the fifth diesel generator has been constructed with the same components and to the same standards as the installed and approved diesel generators, the addition of the fire hose stations is necessary to implement the fifth diesel generator system as a duplicate of the installed diesel generator systems, and the availability of a fifth diesel generator will improve the reliability and capability of emergency power supply system. Furthermore, the deletion of the fire hose stations in the auxiliary essential raw cooling water system (AERCWS) area will not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated or (3) involve a significant reduction in a margin of safety because the AERCWS is no longer used as a safety related system and the fire hose stations are no longer necessary to protect a safety-related system. The Commission proposes to determine that the changes identified in this notice do not involve a significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37401.

Attorney for licensee: Mr. Herbert S. Sanger, Jr., Esq., General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E11B33, Knoxville, Tennessee 37902.

NRC Branch Chief: Elinor G. Adensam.

Virginia Electric and Power Company et al., Docket Nos. 50–338 and 50–339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendments request: February 9, 1984.

Description of amendments request: The amendment request would add Technical Specifications for the Administrative Controls to the Post-Accident Sampling System in accordance with the requirements of NUREG–0737.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). A change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications, Example (ii), is explicity considered not likely to involve significant hazards. This change impose additional limiting conditions of operation and is therefore more restrictive. Accordingly, the Commission proposes to determine this change involves no significant hazards consideration.

Local Public Document Room locations: Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Attorney for licensee: Michael W. Maupin, Esq., Hunton, Williams, Gay and Gibson, P.O. Box 1535, Richmond, Virginia 23212.

NRC Branch Chief: E.G. Tourigny, Acting Chief.

Virginia Electric and Power Company, Docket Nos. 50–280 and 50–281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment requests: October 28, 1980, as supplemented September 21, 1983 and April 12, 1985.

Description of amendment requests: The amendment would delete the High Energy Pipe Break Inspection Program (Technical Specification 4.15) section of the Technical Specifications (TS). By letter dated October 28, 1980, the licensee requested several changes to the TS. Among the changes proposed was one pertaining to break points to be incorporated in the High Energy Pipe Break Inspection Program. By letter dated September 21, 1983, the licensee indicated that there had been changes in the information concerning break points to be incorporated in the High Energy Pipe Break Inspection Program and that a subsequent submittal would include this information. The supplemental information was submitted by letter dated April 12, 1985. The proposed change would delete TS 4.15 completely. In its place, and acceptable inspection would be conducted under the ASME Code Section XI Inservice Inspection (ISI) program.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing examples (48 FR 14870). One of the examples of actions likely to involve a significant hazards consideration (Example iii) states: "A significant relaxation in limiting conditions for operation not accompanied by compensatory changes, conditions, or actions that maintain a commensurate level of safety . . ." The proposed change is similar to the example in that it deletes an existing surveillance requirement. However,

unlike the example, compensatory actions, in the form of an equivalent ISI program, would be taken, thus assuring that a commensurate level of safety is maintained. Therefore, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Attorney for licensee: Mr. Michael W. Maupin, Hunton and Williams, Post Office Box 1535, Richmond, Virginia 23213.

NRC Branch Chief: Steven A. Varga.

Virginia Electric and Power Company, Docket Nos. 50–280 and 50–281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment requests: November 30, 1984, as supplemented April 12, 1985

Description of amendment requests: The amendment request was initially noticed on February 27, 1985 (50 FR 8011). This notice includes changes requested in a subsequent submittal dated April 12, 1985. The request is in response to NRC Generic Letter 83–43 to all licensees, in which model Technical Specifications were forwarded which showed the revisions to reporting requirements as necessitated by §§ 50.72 and 50.73 of Title 10 of the Code of Federal Regulations. Section 50.72 revises the immediate notification requirements for operating nuclear power plants. Section 50.73 provides for a revised Licensee Event Report System.

By letter dated November 30, 1984, Virginia Electric and Power Company submitted proposed license amendments for NRC review and approval which reflect changes to reporting requirements. In addition, minor editorial and typographical errors are corrected. The April 12, 1985 supplement revises references on several pages to reflect renumbering of Section 6 pages and adds a reference to the initial notification requirements of 10 CFR 50.72.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the applications of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples (vii) of actions not likely to involve a significant hazards consideration is a change to make the license conform to changes in the regulations where the change results in very minor changes to facility operations clearly in keeping with the regulations. The NRC initial review of the licensee's submittal related to reporting indicates that this is the case. Another example (i) of actions not likely to involve a significant hazards consideration is a purely administrative change to Technical Specifications; for example, a change to achieve consistency throughout the Technical Specification, correction of an error, or a change in nomenclature. The remaining changes fall into this category. Accordngly, the Commission proposes to determine that these amendments do not involve a significant hazards consideration.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Attorney for licensee: Mr. Michael W. Maupin, Hunton and Williams, Post Office Box 1535, Richmond, Virginia 23213.

NRC Branch Chief: Steven A. Varga.

Virginia Electric and Power Company, Docket Nos. 50–280 and 50.281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment requests: May 13, 1985.

Description of amendment requests: The amendments would modify the description in Section 5.3 of the Surry Technical Specifications of the fuel assemblies in the Surry 1 and 2 cores. The proposed changes will allow reconstituted fuel assemblies to be placed in the Surry cores. The licensee is pursuing fuel assembly reconstitution as a means to enable the use of the remaining energy in fuel assemblies which contain small numbers of leaking fuel rods.

In the reconstitution process the fuel rods which are known to have failed will be removed and replaced with dummy rods. The reconstituted assembly will comply with the original assembly design criteria. The failed fuel rods will be stored in a fuel rod canister designed to prohibit the loss of fuel material while providing adequate cooling.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). Example (iii) states: "For a nuclear power reactor, a change resulting from a nuclear reactor core reloading, if no fuel assemblies significantly different from those found previously acceptable to the NRC for a previous core at the facility in question are involved. This assumes that no significant changes are made to the acceptance criteria for the technical specifications, that the analytical methods used to demonstrate conformance with the technical specifications and regulations are not significantly changed and that the NRC has previously found such methods acceptable". The analyses show that the reconstituted assemblies will comply with original design criteria. The analytical methods used by the licensee will remain unchanged. Therefore, the staff proposes to determine that the application for amendments does not involve a significant hazards consideration.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Attorney for licensee: Mr. Michael W. Maupin, Hunton and Williams, Post Office Box 1535, Richmond, Virginia 23213.

NRC Branch Chief: Steven A. Varga.

Washington Public Power Supply System, Docket No. 50–397, WNP–2 Richland, Washington

Date of amendment request: February 27, 1985.

Description of amendment request: The proposed amendment to Operating License NPF–21 would revise the WNP–2 Technical Specifications to permit replacement of the High Pressure Coolant Sysem (HPCS) pump discharge pressure—high signal with a pump running signal taken directly from contacts in the pump breaker. The present HPCS design incorporates minimum flow valve logic based on concurrent conditions of high pump discharge pressure *and* low system flow. The pressure switch that provides the high discharge pressure (pump running) input takes its signal downstream of the pump discharge check valve; consequently, upon securing the pump following closure of the test flow path, high pressure can be trapped downstream of the check valve and result in the minimum flow valve remaining open with the pump off. This high pressure necessitates depressurizing the system to close the valve. Further the Technical Specifications as presently written contain the requirement to perform a monthly Channel Functional Test and an annual (during refueling outage) Channel Calibration on the Pump Discharge Pressure-High (pump running) instrumentation.

This proposed amendment, if approved, will permit the valve to open on low flow and breaker closed (pump running) and would close on high flow *or* with the breaker open. With this

design enhancement, the pump discharge pressure-high signal would no longer be used or needed. Deletion of the signal surveillance requirement from the Technical Specifications will not decrease reliability and has little or no safety significance because the signal will not be part of the control logic. Drift and calibration errors associated with this pressure instrumentation and its attendant failure modes thus will be eliminated. Actuation of the system itself is being made even more affirmative from the standpoint of signal reliability; that is, the proposed pump logic will include a positive indication of the pump breaker position thus will automatically reflect the status of the HPCS pump without any of the problems associated with instrument channels. As before, the pump minimum flow logic will be functionally verified during the HPCS Pump Quarterly Operability Test as well as during the 18 month Logic System Functional Test performed during refueling outages.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from an accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The licensee has determined that the requested amendment per 10 CFR 50.92 does not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because replacing an instrument signal with a simple "contacts closed" signal does not degrade the HPSC system's ability to perform following an accident nor does it degrade the system pressure boundary; or

(2) Create the possibility of a new or different kind of accident than previously evaluated because the post accident ECCS function of the system will not be affected; or

(3) Involve a significant reduction in a margin of safety because the proposed change will have no effect on the ability of the HPCS system to meet its associated ECCS injection functions.

The licensee has determined and the NRC staff agrees that these changes have little safety significance and that the proposed amendment will not alter any of the accident analyses.

Based on staff review of the proposed modifications, we find that there exists reasonable assurance that the proposed replacement of an instrumentation signal with a positive "contacts closed" signal and elimination of the (no longer used) instrumentation signal from surveillance requirements will have little or no impact on the public health and safety.

Accordingly, the Commission proposes to determine that the proposed changes to the Technical Specifications involve no significant hazards considerations.

Local Public Document Room location: Richland Public Library, Swift and Northgate Streets, Richland, Washington 99352.

Attorney for licensee: Nicholas Reynolds Esquire, Bishop, Cook, Liberman, 1200 Seventeenth Street, NW., Washington, D.C. 20036.

NRC Branch Chief: W. Butler.

Washington Public Power Supply System, Docket No. 50-397, WNP-2 Richland, Washington

Date of amendment request: March 13, 1985.

Description of amendment request: The proposed amendment to Operating License NPF-21 would revise the WNP-2 Technical Specifications to change the trip setpoints and allowable values for some of the isolation instrumentation in portions of the Reactor Building. In addition the amendment, if approved, will change the delta temperature—high signal to a temperature—high signal for isolation actuation from the RHR Heat Exchanger Area and correct an inconsistency in the quality assurance record retention requirements.

These measurements are used primarily to detect leaks and line breaks in various rooms and areas of the Reactor Building. An increase in air temperature is signaled in the control room and used as an initial indication that a high energy line leak has occurred in the secondary containment. If this initial indication is not severe it is used as a basis for an inspection, evaluation and manual intervention as appropriate. If the measured signal exceeds the trip setpoint value, the signal automatically causes an isolation of the systems associated with the local area of room. Initially, conservative values of the leak detection setpoints were deliberately chosen to permit early warning and isolation for local leaks and pipe breaks.

When the Operating License was issued, the Technical Specifications included several trip setpoints and allowable values that were based on these conservative engineering estimates with the expectation that these values would be adjusted following plant operation when actual ambient conditions were established. These values were no noted in the Technical Specification itself and more appropriate values were to be determined and submitted to the Commission. (See "TABLE NOTATIONS," page ¾ 3-18 of the Technical Specification) The Supply System has completed the necessary testing, measurements and analyses and this amendment will change the values as appropriate to reflect the actual plant conditions.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from an accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The licensee has determined that the requested amendment per 10 CFR 50.92 does not:

(1) Involve a significant increase in the probability or consequences of an accident previously evalauted becaue the updated temperature setpoints use the same leakage criteria as previously and do not alter the valve closure times, so accident probabilities and consequences are not affected; or

(2) Create the possibility of a new or different kind of accident than previously evaluated because this change introduces no new accident types nor changes any criteria; or

(3) Involve a significant reduction in a margin of safety because the same criteria for allowable leakage prior to high temperature trip have been used, so the margin of safety has been maintained.

The licensee has determined and the NRC staff agrees that these changes have little safety significance and that the proposed amendment will not alter any of the accident analyses.

Based on staff review of the proposed modification, we find that there is reasonable assurance that the proposed changes to the containment isolation trip setpoints and the allowable values of these parameters will have little or no impact on the public health and safety.

Accordingly, the Commission proposes to determine that the proposed changes to the Technical Specifications involve no significant hazards considerations.

Local Public Document Room location: Richland Public Library, Swift and Northgate Streets, Richland, Washington 99352.

Attorney for licensee: Nicholas Reynolds Esquire, Bishop, Cook, Liberman, Purcell & Reynolds, 1200 Seventeenth Street, NW., Washington, D.C. 20036.

NRC Branch Chief: Walter R. Butler.

Washington Public Power Supply System, Docket No. 50–397, WNP–2 Richland, Washington

Date of amendment request: April 19, 1985.

Description of amendment request: The proposed amendment to Operating License NPF–21 would revise the WNP–2 Technical Specifications to change the Surveillance Requirement 4.6.1.7 from the specific elevations/azimuths now incorporated in the Technical Specifications to a written description of the locations of the thermocouples used to determine the average drywell air temperature.

This change, if approved, will provide the plant with some flexibility in the actual thermocouple locations used for surveillance, while maintaining the original intent and concept. A maximum average drywell temperature of 135°F is specified in the Technical Specifications as a Limiting Condition of Operation (LCO) to ensure validity of the accident analyses that use drywell temperature as an initial condition. Currently the Technical Specifications require that the drywell average temperature shall be the arithmetic average of at least three of five thermocouple measurements at specified locations within the containment drywell. The proposed temperature signals will be taken from the air as it enters at least three of the drywell cooling units. Elimination of the shield annulus termperature intrusion into the average will actually provide a more accurate average drywell temperature because the annulus volume, as small fraction of the drywell volume, is unrealistically weighted in the current formulation of the arithmetic average.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from an accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The licensee has determined that the requested amendment per 10 CFR 50.91 does not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because this change represents a modification to the location of the thermocouples that produce signals for combining to form a drywell average termperature, not a change in the thermocouple design or function or change in the accident analyses that use average drywell temperature as an initial condition.

(2) Create the possibility of a new or different kind of accident than previously evaluated because these devices are passive, providing no direct mitigation of an accident; therefore, they could not create the potential for a different type of accident than previously identified and evaluated; or

(3) Involve a significant reduction in a margin of safety because the original intent of the LCO is being maintained.The actual sensors to be used for determining average air termperature is changing due to design change to the drywell cooling system, while the number remains the same. The margin of safety is, therefore, also maintained.

The licensee has determined and the NRC staff agrees that these changes have little safety significance and that the proposed amendment will not alter any of the accident analyses.

Based on staff review of the proposed modification, we find that there is reasonable assurance that the proposed changes to the drywell air temperature instrumentation locations will have little or no impact on the public health and safety.

Accordingly, the Commission proposed to determine that the proposed changes to the Technical Specifications involve no significant hazards considerations.

Local Public Document Room location: Richland Public Library, Swift and Northgate Streets, Richland, Washington 99352.

Attorney for licensee: Nicholas Reynolds Esquire, Bishop, Cook, Liberman, Purcell & Reynolds, 1200 Seventeenth Street, NW., Washington, D.C. 20036.

NRC Branch Chief: Walter R. Bulter.

Washington Public Power Supply System, Docket No. 50–397, WNP–2 Richland Washington

Date of amendment request: May 16, 1985.

Descripition of amendment request: This proposed amendment would revise the Technical Specifications (TS) for the Washington Public Power Supply System, Nuclear Plant No. 2 (WNP 2). The proposed revision to the TS Tables 3.3.3–1, 3.3.2–2, and 4.3.3.1–1 reflects modifications to the Automatic Depressurization System (ADS) by removing the high pressure trip from the logic sequence and adding a manual inhibit switch thus eliminating the need for manual actuation to ensure core coverage. The request TS change removes the ADS high drywell pressure instruments and adds manual inhibit switches to ADS logic in TS 3.3.3 and 4.3.3.1.

This modification is a result of TMI Action item II.K.3.18. A BWR Owners Group (BWROG) study of alternatives to the present ADS actuation logic identified modifications to eliminate the need for manual actuation to ensure core coverage in the event of certain accident sequences. The proposed TS change is the second option outlined in the BWROG study and is one of the two options indicated to be an acceptable method of complying with TMI Action item II.K.3.18. (See WNP W 2 Safety Evaluation Report, NUREG–0892, Supplement No. 4). The proposed reduction of logic devices will increase ADS reliability and will provide additional assurance of adequate core cooling by further automating reactor pressure vessel depressurization for isolations and stuck open relief valve events, while satisfying design concerns associated with anticipated transients without scram.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples involving no significant hazards consideration include "(ii) A change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications: For example, a more stringent surveillance requirement."

Based on the above discussion the staff concludes that the proposed amendment is consistent with the staff position. Further, the proposed amendment provides additional

assurance of adequate core cooling by extending the operation of the ADS to encompass additional accident and transient conditions which do not directly produce a high drywell pressure signal.

Example (ii) applies to the added requirements for automating reactor pressure vessel depressurization for isolations and stuck open relief valve events, while satisfying design concerns associated with anticipated transients without scram. Therefore, since the application for amendment involves proposed changes that are similar to an example for which no significant hazards consideration exists, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Richland Public Library, Swift and Northgate Streets, Richland, Washington, 99352.

Attorney for license: Nicholas Reynolds Esquire, Bishop, Cook, Liberman, Purcell and Reynolds, 1200 Seventeenth Street, NW., Washington, D.C. 20036.

NRC Branch Chief: Walter R. Butler.

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of amendment request: March 29, 1985.

Description of amendment request: This amendment requests incorporation of radiological effluent technical specifications into the license as required by 10 CFR 50.34a.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870) of actions likely to involve no significant hazards consideration. Examples of actions involving no significant hazards consideration are changes that relate to "(ii) A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications: for example, a more stringent surveillance requirement; and (vii) A change to make a license conform to changes in the regulations where the license change results in minor changes to facility operations clearly in keeping with the regulations." We conclude the suggested changes are similar to the Commission's examples (ii) and (vii).

Since the application for amendment involves proposed changes that are similar to examples for which no significant hazards consideration exists, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

Attorney for licensee: Steven E. Keane, Esquire, Foley and Lardner, 777 East Wisconsin Avenue, Milwaukee, Wisconsin 53202.

NRC Branch Chief: Steven A. Varga.

PREVIOUSLY PUBLISHED NOTICES OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO OPERATING LICENSES AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices because time did not allow the Commission to wait for this bi-weekly notice. They are repeated here because the bi-weekly notice lists all amendments proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Meckleburg County, North Carolina

Date of amendment request: April 3, 1985.

Brief description of amendments: The proposed amendments would incorporate into the McGuire, Unit 2, license authority to receive, possess, and store irradiated Oconee fuel assemblies under the same conditions as are presently authorized by the McGuire, Unit 1, license.

Date of publication of individual notice in **Federal Register:** May 22, 1985 (50 FR 21152).

Expiration date of individual notice: June 21, 1985.

Local Public Document Room Location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223.

Sacramento Municipal Utility District, Docket No. 50-312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of amendment request: February 14, 1985, as revised May 6, 1985.

Brief description of amendment: To satisfy the habitability requirements on NUREG-0737, Item III.D.3.4, the Control Room Emergency Heating, Ventilating and Air Conditioning (HVAC) System was changed from a single train system into a two-loop redundant full-flow system. In addition, the Control Room Emergency HVAC System was expanded to include the Emergency HVAC requirements for the Technical Support Center (TSC). The new Control Room/TSC Emergency HVAC System is designed to satisfy the habitability requirements of both the Control Room and the TSC.

In accordance with the licensee's application dated February 14, 1985, the proposed amendment would revise the Technical Specifications to incorporate design changes to the Control Room/TSC Emergency Filtering System and the Air Supply System which are subsystems of the new Control Room/TSC Emergency HVAC System. Specifically, the amendment would: (1) Change the name of the Emergency Control Room Filtering System to Control Room/TSC Emergency Filtering System, (2) change the Limiting Condition for Operation (LCO) for the Filtering System to reflect the new design, (3) revise the surveillance testing of the Air Makeup System to reflect new design flow rates and Control Room/TSC positive pressure requirements, and (4) revise surveillance testing of the filtering system to reflect proposed reduced removal efficiencies for testing of the charcoal and HEPA filters and to reflect new design flow rates. The NRC staff earlier reviewed the proposed Technical Specifications for these four items and found the proposed reduced removal efficiencies for testing charcoal and HEPA unacceptable. Subsequently, by letter dated May 6, 1985, the licensee revised the February 14, 1985 application to delete the proposed change of the reduced charcoal and HEPA filter testing (i.e., so that the original Technical Specifications remain unchanged).

Date of publication oif individual notice in **Federal Register:** May 16, 1985, (50 FR 20154).

Expiration date of individual notice: June 17, 1985.

Local Public Document Room Location: Sacramento City-County Library, 828 I Street, Sacramento, California.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the period since publication of the last notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application

complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Alabama Power Company, Docket Nos. 50-348 and 50-364, Joseph M. Farley Nuclear Plant, Unit Nos. 1 and 2, Houston County, Alabama

Date of application for amendments: May 3, 1983, supplemented July 29 and September 23, 1983, and January 27 and September 6, 1984.

Brief description of amendments: Technical Specification surveillance requirements are modified for the auxiliary building and service water building d.c. batteries including load tests and checks of such things as battery voltage, electrolyte level, specific gravity, and general battery conditions to assure continued operability. The changes update the surveillance requirements to conform to the newer Commission format based on the more recent IEEE Standard 450-1980.

Date of issuance: May 24, 1985.

Effective date: May 24, 1985.

Amendment Nos.: 59 and 50.

Facilities Operating License Nos. NPF-2 and NPF-8. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register.** August 23, 1983 (48 FR 38385) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 24, 1985.

No significant hazards consideration comments were received: No.

Local Public Document Room location: George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36306.

Baltimore Gas & Electric Company, Docket No. 50-317, Calvert Cliffs Nuclear Power Plant, Unit No. 1, Calvert County, Maryland

Date of applications for amendment: December 31, 1984, February 22, 1985, (partial response) and February 26, 1985.

Brief description of amendment: Provides Technical Specification changes for startup testing and operation of Calvert Cliffs Unit 1 for cycle 8.

Date of issuance: May 20, 1985.

Effective date: May 20, 1985.

Amendment No.: 104.

Facility Operating License No. DPR-53: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 27, 1985 (50 FR 12132 at 12136) and April 19, 1985 (50 FR 15661).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 20, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Baltimore Gas & Electric Company, Docket Nos. 50-317 and 50-318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendments: September 20, 1984 and January 31, 1985.

Brief description of amendments: The amendments change the Unit 1 and Unit 2 Technical Specifications (TS) to reflect: (1) Changes to Surveillance requirements for safety related hydraulic sway arrestors (snubbers) for Unit 1 only, (2) clarification of the degree of independence associated with the emergency core cooling system (ECCS) and shutdown cooling system, (3) deletion of a reactor vessel pressurization curve that is no longer needed for Unit 2 only, (4) a change to the containment isolation valve identification numbers, (5) incorporation of the containment water level monitor including operability and surveillance requirements, and (6) installation of a new meteorological monitoring system.

Date of issuance: May 16, 1985.

Effective date: May 16, 1985.

Amendment Nos.: 103 and 85.

Facility Operating License Nos. DPR-53 and DPR-69. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 31, 1984 (49 FR 50794 at 50798) and March 27, 1985 (50 FR 12132 at 12136).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 16, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Calvert County Library, Prince Federick, Maryland.

Carolina Power & Light Company, Docket Nos. 50-325 and 50-324, Brunswick, Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendment: July 29, 1982, as supplemented August 30, 1984 and January 18, 1985.

Brief description of amendment: The amendments change the Technical Specifications to correctly identify certain relays associated with the plant emergency power supplies and provide correct setpoint valves for actuating these relays.

Date of issuance: May 23, 1985.

Effective date: May 23, 1985.

Amendment Nos.: 82 and 109.

Facility Operating License Nos. DPR-71 and DPR-62. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 23, 1983 (48 FR 38391) and March 27, 1985 (50 FR 12138).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 23, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Carolina Power & Light Company, Docket No. 50-261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington, South Carolina

Date of application for amendment: September 12, 1984.

Brief description of amendment: The amendment revises the technical

specification to increase the minimum temperature requirement for pressurizing the secondary side of the steam generators above 200 psig from 70°F to 120°F.

Date of issuance: May 14, 1985.
Effective date: May 14, 1985.
Amendment No. 91.
Facility Operating License No. DPR–23. Amendment revised the Technical Specifications.
Date of initial notice in Federal Register: (49 FR 50799) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 14, 1985.
No significant hazards consideration comments received: No.
Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535.

Carolina Power and Light Company, Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington, South Carolina

Date of application for amendment: September 19, 1984.
Brief description of amendment: The amendment would change the Technical Specifications from requiring the station batteries equalizing charge to be performed monthly to performing the charge annually.
Date of Issuance: May 13, 1985.
Effective date: May 13, 1985.
Amendment No. 90.
Facility Operating License No. DPR–23. Amendment revised the Technical Specifications.
Date of initial notice in Federal Register: February 27, 1985 (50 FR 7981) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 13, 1985.
No significant hazards consideration comments received: No.
Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535.

Carolina Power and Light Company, Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington, South Carolina

Date of application for amendment: December 10, 1984.
Brief description of amendment: The amendment would revise Section 6, Administrative Controls, of the Technical Specifications to change the position of Manager-Operations and Maintenance from a single position to two positions; Manager-Operations and Manager-Maintenance; reporting to the General Manager as prior to change.
Date of issuance: May 17, 1985.
Effective date: May 17, 1985.
Amendment No. 92.
Facility Operating License No. DPR–23. Amendment revised the Technical Specifications.
Date of initial notice in Federal Register: February 27, 1985 (50 FR 7980).
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 17, 1985.
No significant hazards consideration comments received: No
Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535.

Commonwealth Edison Company, Docket Nos. 50–373 and 50–374, La Salle County Station, Units 1 and 2, La Salle County, Illinois

Date of amendment request: February 21, 1985 as supplemented by letter dated March 5, 1985.
Brief description of amendment: These amendments reflect the changes in the revised Section of 10 CFR 50.72 and a new Section 10 CFR 50.73, both of which became effective on January 1, 1984. The revised Section 50.72 modifies the immediate notification requirements for operating nuclear power reactors and Section 50.73 provides for a revised Licensee Event Report System. The major changes are in the "Definitions" and "Administrative Control" sections of the Technical Specifications with added administrative changes to to make the Technical Specifications consistent throughout. The definition "Reportable Occurrence" is replaced by a new term, "Reportable Event".
Date of issuance: May 22, 1985.
Effective date: May 22, 1985.
Amendment Nos. 22 and 11.
Facility Operating Licenses Nos. NFP–11 and NFP–18. Amendments revised the Technical Specifications.
Date of initial notice in Federal Register: April 23, 1985 (50 FR 16001).
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 22, 1985.
No significant hazards consideration comments received: No.
Local Public Document Room location: Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348.

Duke Power Company, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: January 11, 1985.
Brief description of amendments: The amendments change the Technical Specifications to reflect the second of several refueling stages involved in the continuing transition to the use of optimized fuel assemblies in Unit 1.
Date of Issuance: May 15, 1985.
Effective date: May 15, 1985.
Amendment Nos. 43 and 24.
Facility Operating License No. NPF–9 and NPF–17. Amendments revised the Technical Specifications.
Date of initial notice in Federal Register: February 27, 1985 (50 FR 7985)
The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 15, 1985.
No significant hazards consideration comments received: No.
Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223.

Commonwealth Edison Company, Docket Nos. 50–295 and 50–304, Zion Nuclear Power Station, Units Nos. 1 and 2, Benton County, Illinois

Date of application for amendments: October 19, 1984, augmented by letters dated December 20, 1984, February 14, 1985, March 8, 1985 and April 19, 1985.
Brief description of amendments: These amendments would change (a) the hot channel factor limits and (b) limiting conditions for operation of the accumulator system. Both changes results from the revised Emergency Core Cooling System analysis.
Date of issuance: May 24, 1985.
Effective date: May 24, 1985.
Amendment Nos. 89 and 79.
Facility Operating License Nos. DPR-39 and DPR–48. Amendments revised the Technical Specifications.
Date of initial notice in Federal Register: March 27, 1985 (50 FR 12142).
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 27, 1985.
No significant hazards consideration comments received: No.
Local Public Document Room location: Zion Benton Library District, 2600 Emmaus Avenue, Zion, Illinois 60099.

Commonwealth Edison Company, Docket Nos. 50–295 and 50–304, Zion Nuclear Power Station, Units 1 and 2, Benton County, Illinois

Date of application for amendments February 5, 1985.
Brief description of amendments: Would revise the actions required in the event of an inoperable rod due to a rod urgent failure condition.
Date of issuance: May 13, 1985.
Effective date: May 13, 1985.
Amendment Nos. 88 and 78.

Facility Operating License Nos. DPR-39 and DPR-48. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 27, 1985 (50 FR 12142).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 13, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Zion Benton Library District, 2600 Emmaus Avenue, Zion, Illinois 60099.

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemah County, Nebraska

Date of application for amendment: May 7, 1985.

Brief description of amendment: The amendment revises the Technical Specifications related to: (1) Mark I Containment Long-Term Program modifications, and (2) continuous containment monitoring for gross nitrogen leakage.

Date of issuance: May 13, 1985.

Effective date: May 13, 1985.

Amendment No. 91.

Facility Operating License No. DPR-62. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 20, 1985 (50 FR 25364).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 13, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of application for amendment: October 5, 1984, as supplemented October 29, 1984.

Brief description of amendment: The amendment revises the Technical Specifications related to: (1) Tables listing the safety-related snubbers that are required to be operable and (2) surveillance requirements for the valves in the recirculation pump discharge valve four-inch bypass lines.

Date of issuance: May 20, 1985.

Effective date: May 20, 1985.

Amendment No.: 92.

Facility Operating License No. DPR-62. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: December 31, 1984 (49 FR 50807).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 20, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Pennsylvania Power and Light Company, Docket No. 50-387, Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania

Date of application for amendment: January 15, 1985 as supplemented on February 21, 1985.

Brief description of amendment: This amendment revises the Unit 1 Technical Specification (TS) to support the operation of Susquehanna Steam Electric Station (SSES), Unit 1 at full rated power during the upcoming Cycle 2 operation. The amendment to support this reload, changes the Technical Specifications in the following areas: (1) Establishes operating limits for all fuel types for the upcoming Cycle 2 operation; (2) establishes the Average Power Range Monitor setpoints; (3) reflects the replacement of approximately one quarter of the core with Exxon fuel assemblies for the upcoming Cycle 2 operation; and (4) modifies the bases section to account for the use of Exxon fuel assemblies.

This reload consists of 764 assemblies, 572 of which once burned GE fuel assemblies and 192 of which are new ENC, type XN-1 fuel assemblies. The Exxon fuel assemblies are very similar to the GE fuel assemblies except for slight differences in the mechanical, thermal-hydraulic and nuclear design.

Although the Exxon fuel is very similar to the GE fuel, the slight differences in mechanical, thermal-hydraulic, and nuclear design of the bundles, and the use of different analysis methodologies, required that a wide range of reanalyses be performed by Exxon Nuclear Company (ENC). This included reanalyzing for anticipated operational occurrences, performing LOCA and MAPLHGR analyses for the Exxon fuel, and analyzing for the rapid drop of a high worth control rod to assure that excessive energy will not be deposited in the fuel. Analyses for normal operation of the reactor consisted of fuel evaluations in the areas of mechanical, thermal-hydraulic and nuclear design.

The use of the ENC type XN-1, fuel assemblies and the associated analytical methods used for the Cycle 2 reload analyses have been previously approved by the NRC staff for use in other boiling water reactors (BWR's). Based on previous experience, the staff has determined that there are only small differences in the results between the use of Exxon or GE analytical methods.

The other differences between the Cycle 1 core and the Cycle 2 core reload are in the core loading pattern. Cycle 1 is a standard GE BWR/4 initial core configuration consisting of fuel assemblies of similar enrichments placed in a specific zone within the core. In contrast the Cycle 2 core will be based on the conventional scatter load principle where fresh reload assemblies are scatter loaded throughout the core except for the center region and the core periphery. Changing from a zone core loading pattern used during first fuel cycle to a scatter loading pattern for the new reload assemblies during the second cycle is an accepted reload method that has been approved by the staff for other BWR plant reloads.

Thus, this core reload involves the use of fuel assemblies that are not significantly different from those previously found acceptable for a previous core at this facility.

Date of issuance: May 22, 1985.

Effective date: Upon start-up following the first refueling outage.

Amendment No.: 45.

Facility Operating License No. NPF-4: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 27, 1985 (50 FR 12153).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 22, 1985.

The Commission made a proposed no significant consideration finding and received no comments on this finding.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Pennsylvania Power and Light Company Docket Nos. 50-387 and 50-388, Susquehanna Steam Electric Stations, Units 1 and 2, Luzerne County Pennsylvania

Dates of application for amendments: January 31, 1985 and supplemented on May 3, 1985.

Brief description of amendments: NUREG-0737 Item II.K.3.18 required modification of the automatic depressurization system (ADS) actuation logic to eliminate the need for manual actuation to assure adequate core cooling. The addition of the ADS drywell pressure bypass timer and manual inhibit switch to the Susquehanna Steam Electric Station (SSES), Unit 1, statisfies this requirement for Unit 1. The addition of

the ADS manual inhibit switch to the Susquehanna Steam Electric Station (SSES), Unit 2, satisfied this requirement for Unit 2. Since the ADS is considered one of the safety systems used to assure emergency core cooling, license condition 2.C.(28)(e) for Unit 1 and license condition 2.C.(12)(f) for Unit 2 required that the licensee propose Technical Specifications to cover the equipment installed which eliminated the need for manual actuation of the ADS. The changes to the Technical Specifications requested in this amendment, for both Units 1 and 2, except those on page ¾ 3–28, are all related to modifications made to satisfy NUREG–0737 Item II.K.3.18 requirements and associated license conditions 2.C.(28)(e) and 2.C.(12)(f).

In addition, this amendment corrects errors contained in Table 3.3.3–1 Emergency Core Cooling System (ECCS) Actuation Logic Instrumentation (page ¾ 3–28) of the Unit 1 and 2 Technical Specifications. Footnote (a), where originally located on this page, applied to every entry. Footnote (a) states:

> A Channel may be placed in an operable status for up to 2 hours for required surveillance without placing the trip system in the tripped condition provided at least one OPERABLE channel in the same trip system is monitoring that parameter.

This footnote was erroneously applied to the manual initiation functions, which can be performed without placing the required system in an inoperable status, and the Level 8 high pressure coolant injection trip function which would become unavailable if one channel were placed in an inoperable status. The proposed amendment removes this footnote from these functions since it was incorrectly applied originally.

Date of issuance: May 15, 1985.

Effective date: Upon startup following the first refueling outage for Unit 1 and 30 days from the date of issuance except in particular cases, no later than September 1, 1985 for Unit 2.

Amendment Nos.: 44 and 11.

Facility Operating License Nos. NPF–14 and NPF–22: Amendment revised the Technical Specifications.

Dates of initial notices in **Federal Register**: March 27, 1985 (50 FR 12156).

The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated May 15, 1985.

No Comments on the proposed no significant hazards consideration determination were received.

Local Public Document Room Location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Power Authority of the State of New York, Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: October 2, 1984 as amended October 22, 1984.

Brief description of amendment: This amendment revises the Technical Specifications to permit a temporary increase in the main stream line high radiation scram and isolation setpoints to facilitate the testing of hydrogen addition to coolant water as a potential inhibitor of intergranular stress corrrosion cracking.

Date of issuance: May 16, 1985.

Effective date: May 16, 1985.

Amendment No: 90.

Facility Operating License No. DPR–59. Amendment revised the Techical Specifications.

Date of initial notice in **Federal Register**: December 14, 1984 (49 FR 48842).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 16, 1985. No significant hazards consideration comments received: No.

Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.

Public Service Electric and Gas Company, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendments: October 26, 1984 and supplemented November 6, 1984.

Brief description of amendments: The amendments update Public Service Electric and Gas Company's Nuclear Department Organization, SORC responsibilities, membership, and quorum requirements.

Date of issuance: May 13, 1985.

Effective date: May 13, 1985.

Amendment Nos. 62 and 33.

Facility Operating Licenses Nos. DPR–70 and DPR–75: Amendments revised the Technical Specifications

Date of initial notice in **Federal Register**: February 27, 1985 (50 FR 8003)

The Commission' related evaluation of the amendments is contained in a Safety Evaluation dated May 13, 1985.

No significant hazards consideration comments received: No

Local Public Document Room location: Salem Free Library, 112 West Broadway, Salem, New Jersey 08079.

Public Service Electric and Gas Company, Docket No. 50–311, Salem Nuclear Generating Station, Unit 2, Salem County, New Jersey

Date of application for amendment: January 11, 1985.

Brief description of amendment: The amendment revises Technical Specifications Figure 3.1–1, Power Dependent Insertion Limits for Salem, Unit No. 2.

Date of issuance: May 17, 1985.

Effective date: May 17, 1985.

Amended No.: 34.

Facility Operating License No. DPR–75: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: March 27, 1985 (50 FR 12160).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 17, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Salem Free Library, 112 West Broadway, Salem, New Jersey 08079.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit 1, Fairfield County, South Carolina

Date of application for amendment: November 16, 1983, as amended December 14, 1984.

Brief description of amendment: The amendment modifies the Technical Specifications to indicate that all snubbers on systems required for safe shutdown/accident mitigation shall be operable and to delete Tables 3.7–4a and 3.7–4b.

Date of issuance: May 6, 1985.

Effective date: May 6, 1985.

Amendment No. 41.

Facility Operating License No. NPF–12. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: February 27, 1985 (50 FR 8007). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 6, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit 1, Fairfield County, South Carolina

Date of application for amendment: December 14, 1984.

Brief description of amendment: The amendment modifies Technical Specification 3/4.9.11 "Spent Fuel Pool Ventilation System" to require certain surveillance testing only when the system is being used in an engineered safety features function.

Date of issuance: May 14, 1985.

Effective date: May 21, 1985.

Amendment No. 42.

Facility Operating License No. NPF-12 Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: February 27, 1985 (50 FR 8006).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 14, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (EXIGENT OR EMERGENCY CIRCUMSTANCES)

During the period since publication of the last notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing. For exigent circumstances, a press release seeking public comment as to the proposed no significant hazards consideration determination was used, and the State was consulted by telephone. In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant, a shorter public comment period (less than 30 days) has been offered and the State consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By July 5, 1985, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first preharing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested,

it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to *(Brach Chief)*: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

Arizona Public Service Company, et al., Docket No. STN 50–528, Palo Verde Nuclear Generating Station, Units No. 1, Maricopa County, Arizona

Date of application for amendment: April 12, 1985.

Brief description of amendment: This amendment authorized a change in Technical Specification 3/4.3.2, Table 3.3–5, Item 3.e, to correct an error in the total response times for the containment spray pumps.

Date of Issuance: May 10, 1985.

Effective Date: April 16, 1985.

Amendment No.: 1.

Facility Operating License No.: NPF–34.

Amendment revised the Technical Specifications.

Press release issued requesting comments as to proposed no significant hazards consideration: No.

Comments received: No.

The Commission's related evaluation is contained in a Safety Evaluation dated May 10, 1985.

Attorney for licensee: Mr. Arthur C. Gehr, Snell & Wilmer, 3100 Valley Center, Phoenix, Arizona 85007.

Local Public Document Room location: Phoenix Public Library, Business, Science and Technology Department, 12 East McDowell Road, Phoenix, Arizona 85004.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50–366, Edwin I. Hatch Nuclear Plant, Unit No. 2, Appling County, Georgia

Date of application for amendment: May 9, 1985.

Brief description of amendment: The amendment revises the overcurrent trip setpoints of the circuit breakers for one drywell cooling unit and three drywell cooling return air fans. These circuit breakers protect the primary containment penetration electrical conductors for these four items of drywell cooling equipment against failure due to overcurrent.

Date of Issuance: May 14, 1985.

Effective Date: May 10, 1985.

Amendment No.: 46.

Facility Operating License No. NPF–34: Amendment revised the Technical Specifications. Public comments requested as to proposed no significant hazards consideration: No.

State Contacted: In accordance with the Commission's regulations, consultation was held with the State of Georgia by telephone. The state had no comments.

The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated May 14, 1985.

Attorney for licensee: G. F. Trowbridge, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia

Dated at Bethesda, Maryland this 29th day of May 1985.

Edward Tourigny,

Acting Chief, Operating Reactors Branch #3, Division of Licensing.

[FR Doc. 85–13397 Filed 6–3–85; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. STN 50–498 OL and STN 50–499 OL; ASLBP No. 79–421–07 OL]

Houston Lighting and Power Company, et al. (South Texas Project Units 1 and 2; Evidentiary Hearings

May 29, 1985.

Notice is hereby given that, as provided in the Atomic Safety and Licensing Board's Sixth Pehearing Conference Order, dated May 17, 1985, the evidentiary hearings for Phase II of this operating license proceeding will commence at 9:30 a.m. on Thursday, July 11, 1985, at the Matagorda County Courthouse, District Court Room No. 2, 1700 7th Street, Bay City, Texas 77414. Hearings will be held at that location from 9:30 a.m. to 6:00 p.m. on Thursday, July 11, 1985; from 9:00 a.m. to 6:00 p.m. on Friday, July 12, 1985; and from 9:00 a.m. to approximately 12 noon on Saturday, July 13. The Board will hear oral limited appearance statements on Saturday, July 13, 1985 from 2:00–5:00 p.m.; except that the Board will not stay in session beyond 3:00 p.m. if, at the time, no persons desiring to present statement are present in the hearing room.

The hearings will continue at 9:30 a.m. on Monday, July 15, 1985, at the University of Houston Law School, University Park, Krost Hall, 4800 Calhoun, Houston, Texas 77004. On July 15, 1985, the Board will hear limited appearance statement at the outset of the session, from 9:30 a.m.–12 noon. The evidentiary session will resume immediately following the last limited appearance statement; after testimony resumes, further limited appearance statements will not be entertained at that session. On July 15, the evidentiary session will extend to approximately 5:30 p.m. Further limited appearance statements will be heard in a session from 7:30–9:30 p.m. on that day, except that the Board will not stay in session beyond 8:00 p.m. if, at the time, no persons desiring to present statements are present in the hearing room.

The hearings will continue from 9:00 a.m.–6:00 p.m. on July 16–18, 1985, and on July 19 from 9:00 a.m. to approximately mid-afternoon, at the University of Houston Law School, University Park, Room 215, Teaching Unit II, 4800 Calhoun, Houston, Texas 77004.

Futher hearing sessions (to the extent necessary) are scheduled for July 29–August 3, 1985, and August 5–9, 1985, at a time and location to be announced.

Any person who has not been admitted as a party to this proceeding may request permission to make a limited appearance pursuant to the

provisions of 10 CFR 2.715(a). A person making a limited appearance may make an oral or written statement on the record. He or she does not become a party but may state a position and raise questions which he or she would like to have answered, to the extent that the questions are within the purview of matters which may be considered in an operating license proceeding, as specified by 10 CFR 2.104(c). Limited appearances will be permitted at this evidentiary hearing, within such limits and on such conditions as may be fixed by the Board. As set forth above, oral limited appearance statements will be taken in Bay City on July 13, 1985 (afternoon session) and in Houston on July 15, 1985 (morning and evening sessions). Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Branch.

Dated at Bethesda, Maryland, this 29th day of May, 1985.

For the Atomic Safety and Licensing Board.

Charles Bechhoefer,

Chairman, Administrative Judge.

[FR Doc. 85-13398 Filed 6-3-85; 8:45 am]

BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

[Order No. 610; Docket No. A85-18]

Guatay, California 92031 (Mr. and Mrs. C. A. Bestle, Petitioners); Order Accepting Appeal and Establishing Procedural Schedule

Issued May 24, 1985.

Before Commissioners: Janet D. Steiger, Chairman; Henry R. Folsom, Vice-Chairman; John W. Crutcher; James H. Duffy, Bonnie Guiton.

Docket Number: A85-18

Name of Affected Post Office: Guatay, California 92031

Name(s) of Petitioner(s): Mr. and Mrs. C. A. Bestle

Type of Determination: Closing

Date of Filing of Appeal Papers: May 17, 1985

Categories of Issues Apparently Raised:

1. Effect on the community (39 U.S.C. 404(b)(2)(A)).

2. Effect on the postal services (39 U.S.C. 404(b)(2)(C)).

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition, in light of the 120-day decision schedule (39 U.S.C. 404(b)(5)), the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the Petitioners. In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memoranda previously filed.

The Commission Orders

(A) The record in this appeal shall be filed on or before June 3, 1985.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the **Federal Register.**

By the Commission.

Cyril J. Pittack,

Acting Secretary.

Appendix

May 17, 1985	Filing of Petition.
May 24, 1985	Notice and Order of Filing of Appeal.
June 11, 1985	Last day of filing of petitions to intervene (*see* 39 CFR 3001.111(b)).
June 21, 1985	Petitioners' Participant Statement of Initial Brief (*See* 39 CFR 3001.115(a) and (b)).
July 11, 1985	Postal Service Answering Brief (*see* 39 CFR 3001.115(c)).
July 26, 1985	(1) Petitioners' Reply Brief should petitioners choose to file one (*see* 39 3001 115(d)).
August 2, 1985	(2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interest of prompt and just decision may require, in scheduling or dispensing with oral argument (*see* 39 CFR 3001.116).
September 14, 1985	Expiration of 120-day decisional schedule (*see* 39 U.S.C. 404(b)(5)).

[FR Doc. 85-13296 Filed 6-3-85; 8:45 am]

BILLING CODE 7715-01-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) Collection title: Freedom of Information Requests.

(2) Form(s) submitted: N/A.

(3) Type of request: New collection.

(4) Frequency of use: On occasion.

(5) Respondents: Individuals or households, businesses or other for-profit, small businesses or organizations.

(6) Annual responses: 5.

(7) Annual reporting hours: 20.

(8) Collection description: Under the Freedom of Information Act the public may request business information maintained by Federal agencies. The collection obtains information needed by the Board to determine whether to release the requested information.

Additional Information or Comments

Copies of the proposed forms and supporting documents may be obtained from Pauline Lohens, the agency clearance officer (312-751-4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Judy McIntosh (202-395-6880), Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Pauline Lohens,

Director of Information and Data Management.

[FR Doc. 85-13344 Filed 6-3-85; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-23710; 70-7105]

Consolidated Natural Gas Company et al.; Notice of System Financing

May 28, 1985.

Consolidated Natural Gas Company ("Consolidated"), a registered holding company, and its subsidiaries, Consolidated Natural Gas Service Company, Inc., CNG Coal Company, CNG Energy Company, CNG Research Company, The Peoples Natural Gas Company, Four Gateway Center, Pittsburgh, Pennsylvania 15222, Consolidated Gas Transmission Corporation, Consolidated System LNG Company, 445 West Main Street, Clarksburg, West Virginia 26301, CNG Producing Company, One Canal Place, Suite 3100, New Orleans, Louisiana 70130, West Ohio Gas Company, 504 Colonial Building, Lima, Ohio 45802, CNG Development Company, One Park Ridge Center, P.O. Box 15746, Pittsburgh,

Pennsylvania 15244, The East Ohio Gas Company, The River Gas Company, 1717 East Ninth Street, Cleveland Ohio 44114, Hope Gas, Inc., Union Natural Gas Center West, Clarksburg, West Virginia 26301 ("subsididary companies"), have filed an application-declaration subject to sections 6(a), 6(b), 7, 9(a), 10, 12(b), and 12(f) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 43, 45, 50(a)(2), 50(a)(5), and 70 thereunder.

Consolidated proposes to finance its subsidiary companies as follows:

(a) Consolidated proposes to finance the seasonal increase in gas storage inventories of subsidiary companies by borrowing, from time to time, through June 15, 1986, up to $175 million from banks on its unsecured promissory notes having a maturity of not more than twelve months from the date of first borrowing, without a commitment fee.

The interest rate on the notes will be either (i) the prime rate of Chase Manhattan Bank, (ii) the London Interbank Offered Rate plus 0.375%, or (iii) the bid rate for Certificates of Deposit plus 0.50%.

(b) Consolidated, in order to meet working capital requirements, proposes to issue and sell commercial paper, in the form of short-term bearer notes, to Merrill Lynch Money Market, Inc. ("Merrill"), a dealer in commercial paper, in a principal amount not to exceed $300 million outstanding at any one time, from time to time, through June 15, 1986. The commercial paper will have varying maturities of not more than 270 days after date of issue and will be issued and sold in varying denominations of not less than $50,000 nor more than $5 million directly to Merrill, at a discount which will not be in excess of the discount rate per annum for commercial paper of comparable quality and like maturity. Consolidated proposes to sell commercial paper only so long as the discount rate or the effective interest cost of the date of sale does not exceed the equivalent cost of borrowings from a commercial bank.

(c) Consolidated proposes, if it becomes impractical to issue commercial paper, to make short-term bank borrowings from Chase Manhattan ("Chase") and Citibank, N.A. ("Citibank"). Consolidated would borrow (i) from Chase from time to time through June 15, 1986 an aggregate principal amount not to exceed $75 million outstanding at any one time, without collateral or commitment fee, at the prime commercial rate of interest at Chase in effect on the date of each borrowing, and (ii) from Citibank, from time to time through June 15, 1986, an aggregate principal amount not to exceed $50 million outstanding at any one time, without collateral but with a commitment fee of one-eighth of one percent (0.125%) on said principal amount, at the base rate of interest at Citibank in effect on the date of each borrowing. Borrowings from both banks would be evidenced by the promissory notes of Consolidated with the right of prepayment, having a maturity date within 90 days of each borrowing date. The additional back up of $175 million required to support the issuance of $300 million of commercial paper notes will be supported by existing bank lines.

(d) Consolidated proposes to make, from time to time through June 15, 1986, open account advances in an amount not to exceed $464,100,000 at any one time, to the subsidiary companies for inventory gas financing and working capital requirements. Such advances may be made as requested by letter agreement by the treasurer of each subsidiary and will be repaid within one year from the date of the first advance to such subsidiary company with interest at substantially the same effective rate of interest as the related gas storage bank loan, sale of commercial paper, and/or bank borrowings by Consolidated. If there is no outstanding short-term debt, the interest rate would be at the prime commercial rate of interest in effect from time to time at Chase. Such advances will be made up of the following principal amounts:

Company	Amount
CNG Development Co	$30,000,000
CNG Producing Co	50,000,000
Consolidated Gas Transmission Corp	120,000,000
Consolidated Natural Gas Service Co	1,000,000
Hope Gas, Inc	10,000,000
The East Ohio Gas Co	190,000,000
The Peoples Natural Gas Co	55,000,000
The River Gas Co	2,100,000
West Ohio Gas Co	6,000,000
Total	464,100,000

Consolidated seeks to have the 5% limitation under section 6(b) of the Act raised to 33% from the order date through June 15, 1986. Such an increase would permit Consolidated to have outstanding at any one time up to $300 million aggregate principal amount of short-term notes.

(e) Consolidated proposes to make long-term, non-negotiable loans, from time to time through June 15, 1986, of up to $182,500,000 to the subsidiary companies set forth below. These loans will be evidenced by long-term, non-negotiable notes of the subsidiaries maturing over a period to be determined by Consolidated's officers, with the interest rate predicated on the prime rate at Chase. The loans would partially finance the capital expenditures of these subsidiaries, up to the following principal amounts:

Company	Amount
CNG Development Co	$28,000,000
CNG Producing Co	104,000,000
The East Ohio Gas Co	25,000,000
The Peoples Natural Gas Co	25,000,000
The River Gas Co	500,000
Total	182,500,000

(f) Consolidated proposes to make revolving credit advances not to exceed $100,000,000 at any one time outstanding to subsidiary companies set forth below to figure revolving credit advances made in 1984 and repaid in 1985. Such advances may be made through June 15, 1986, upon letter agreement by each such subsidiary company, in accordance with Consolidated's Credit Agreement with Chase (HCAR No. 22362), with interest at substantially the same effective rate of interest as paid by Consolidated under such Credit Agreement. Should Consolidated have no outstanding amount under its Credit Agreement, the interest rate would be the prime rate in effect from time to time at Chase. Such advances will be made up of the following principal amounts:

Company	Amount
CNG Producing Co	$40,000,000
Consolidated Gas Transmission Co	30,000,000
The East Ohio Gas Co	25,000,000
The Peoples Natural Gas Co	5,000,000
Total	100,000,000

(g) Consolidated proposes to purchase from the four subsidiary companies listed below and such subsidiary companies propose to issue and sell to Consolidated to finance, in part, their capital expenditures, an aggregate of $72,700,000 in common stock, at par value, as called for from time to time through June 15, 1986, as follows:

Company	Number of shares ($100 par)	Aggregate par value
CNG Coal Co	15,000	$1,500,000
CNG Development Co	310,000	31,000,000
CNG Producing Co	400,000	40,000,000
CNG Research Co	2,000	200,000
Total		72,700,000

The application-declaration and any amendments thereto is available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by June 21, 1985, to the Secretary, Securities and Exchange Commission, Washington,

D.C. 20549, and serve a copy on the applicants-declarants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Investment Management, pursuant to delgated authority.

John Wheeler,

Secretary.

[FR Doc. 85-13443 Filed 6-3-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22081; File No. SR-Amex-85-13]

Self-Regulatory Organizations; Proposed Rule Change by American Stock Exchange, Inc.; Relating to Listing Guidelines for Real Estate Investment Trusts

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on April 26, 1985, the American Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange, Inc. is proposing to amend Section 114 of the Amex Company Guide to raise the level of aggregate annual expenses which may be incurred by a real estate investment trust.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

(1) *Purpose.* In October 1971, the Amex adopted special requirements for the original listing of securities of real estate investment trusts ("REITs") together with special listing standards dealing with possible conflicts of interest between REITs and their advisers. The provisions on conflicts of interest were largely patterned after a 1970 Statement of Policy of the Midwest Securities Commissioner's Association which sets forth recommended requirements for its 24 member states.

Among the more significant provisions adopted was a limit on the aggregate annual expenses which could be paid or incurred by a REIT. Presently, section 114(d)(C) of the Company Guide provides that these expenses, including fees paid to the REIT's adviser, cannot exceed the greater of 1½% of the average net assets of the trust or 25% of the net income of the trust, but in no event more than 1½% of the total invested assets.

In 1981, the North American Securities Administrators Association, Inc. ("NASAA"), the umbrella organization for all 50 State Securities Commissions, endorsed a series of recommended guidelines for the states to follow in processing REIT offerings. Included in these guidelines is a provision permitting REITs to have total operating expenses, including advisory fees, of up to 2% of their average invested assets or 25% of their net income. This 2% ceiling is now regarded as the industry standard.

The Exchange is therefore proposing to amend Section 114 along the lines of the new NASAA guidelines by adopting a 2% ceiling on aggregate expenses with the right on the part of the independent trustees to raise such limits for unusual or non-recurring instances. These changes will further uniformity or regulation throughout the industry and facilitate the processing of REIT listing applications by the Exchange.

(2) *Basis.* The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 in general, and Section 6(b)(5) in particular, in that it will update an Exchange guideline which protects investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will not impose any burden on competition. Rather, by conforming Amex rules to the current industry standards it will simplify the process of Exchange listing for certain REITs thereby removing a burden on competiton.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and argument concerning the foregoing. Persons making written submission should file six copies therefore with the Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. ¶552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by June 25, 1985.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 28, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-13441 Filed 6-3-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22038; SR-NYSE-85-21]

Filing and Order Granting Accelerated Approval of Proposed Rule Change; New York Stock Exchange, Inc.

On May 7, 1985, the New York Stock Exchange, Inc. ("NYSE"), submitted a proposed rule change, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act")[1] and Rule 19b-4 thereunder,[2] to conform NYSE Rule 791 ("Communications to Customers") to amended Rule 134a under the Securities Exchange Act of 1933 ("Securities Act")[3] relating to the use and content of written materials on options disseminated to the public.[4] As the NYSE points out, the Commission previously has approved similar rule proposals for the American ("Amex") and Philadelphia ("Phlx") Stock Exchanges and the Chicago Board Options Exchange, Inc. ("CBOE").[5] The NYSE states that the statutory basis for its proposed rule change is Section 6(b)(5) of the Exchange Act in that it is designed to promote just and equitable principles of trade, foster cooperation and coordination with others engaged in regulating securities transactions and provide for the protection of investors and the public interest.

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change within 21 days from the date of publication of the submission in the Federal Register. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR-NYSE-85-21.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available at the NYSE.

The Commission finds that the proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the proposed rule change conforms NYSE Rule 791 to amendments to Rule 134a under the Securities Act that were published in the Federal Register for comment, considered, and approved by the Commission, and parallels rule changes by the Amex, Phlx and CBOE which also were published for comment in the Federal Register. No comments were received on the proposed rule changes by the Amex, Phlx and CBOE.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 29, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-13445 Filed 6-3-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22087; File No. SR-OCC-85-6]

Self-Regulatory Organizations; the Options Clearing Corporation; Notice of Filing and Order Approving on an Accelerated Basis a Proposed Rule Change

May 29, 1985.

The Options Clearing Corporation ("OCC") on May 20, 1985, submitted a proposed rule change to the Commission under Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"). This Order gives notice of the proposal and approves the proposal on an accelerated basis under Section 19(b)(2) of the Act.

OCC's proposal would permit the admission of the National Association of Securities Dealers, Inc. ("NASD")[1] as a Participating Exchange[2] of OCC. The proposal also would make several related changes in OCC By-Laws, Rules, Restated Participant Exchange Agreement and Stockholders Agreement to enable OCC to issue, clear and settle options on National Market System stocks ("NMS stocks"). Over-the-counter and exchange trading of such options was approved in principle by the Commission on May 8, 1985.[3] The Commission expects to approve in the near future exchange proposals to begin trading options on NMS stocks, with exchange trading possibly beginning as soon as June 3, 1985.[4]

OCC's By-Laws[5] would be amended to include a registered national securities association within the definition of, and qualifications for, Participating Exchanges. Amendments to OCC Rules[6] would specify, in effect, that OCC will conduct business with NASD members through the NASD's existing offices according to current OCC procedures. Also, closing prices reported on NASDAQ would be included within the definition of "closing prices" for purposes of expiration date exercise procedures.

Amendments to OCC's Restated Participant Exchange Agreement ("PEA") would express OCC's current Participant Exchanges' consent to permitting a national securities association to become a Participating Exchange. New York City would be considered the principal location of the NASD for purposes of the PEA.[7] Similarly, amendments to OCC's

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1984).

[3] 17 CFR 230.134a (1984).

[4] The amendments to Rule 134a were announced in Securities Act Release No. 6518, March 22, 1984, 49 FR 12687.

[5] Securities Exchange Act Release Nos. 21063, 21254 and 21887, June 18 and August 17, 1984 and March 25, 1985; 49 FR 25725 and 33522, and 50 FR 12678.

[1] OCC's proposal actually refers to "registered national securities associations" rather than to the NASD. At the present time, however, the NASD is the only national securities association registered with the Commission under Section 15A of the Act.

[2] OCC is owned by its Participating Exchanges, which are the only entities authorized to trade OCC issued options. *See* OCC By-Law Article VII for qualifications of Participating Exchanges.

[3] *See* discussion in Securities Exchange Act Release No. 22026 (May 8, 1985), 50 FR 20310 (May 15, 1985) ("Release No. 34-22026").

[4] Effectiveness of the approvals, and thus commencement of exchange trading, may be postponed to permit exchanges to obtain Commission approval for surveillance and other programs addressing the Commission's regulatory concerns stated in Release No. 34-22026. Over-the-counter trading of NMS stock options must await Commission approval of NASD's proposal, which the Commission expects will be submitted within the next several months.

[5] OCC By-Laws Articles I and VII would be amended.

[6] OCC Rules 210, 602, and 805 would be amended.

[7] Other changes would conform the PEA to OCC By-Laws and Rules, as amended by this proposal.

Stockholders Agreement would express OCC's current stockholders' consent to a national securities association becoming a stockholder of OCC.

OCC believes that the proposal is consistent with the Act, and in particular Section 17A of the Act, because it promotes the prompt and accurate clearance and settlement of options on NMS stocks. Specifically, the proposal would bring clearance and settlement of these options within the same clearing system and rules currently used by OCC for other options.

OCC requested accelerated approval of the proposal, under Section 19(b)(2) of the Act, to the extent necessary to make the proposal effective at the latest by the date the Commission allows exchange trading in NMS stock options to begin. OCC believes that accelerated approval is justified because the proposal merely facilitates the implementation of exchange and NASD proposals that already have been subjected to public comment and close deliberation by the Commission. That is, OCC believes that this proposal raises no issues other than those already considered by the Commission. OCC notes that commencement of trading in NMS stock options, even when authorized by the Commission, must await Commission approval of OCC's proposal concerning issuance, clearance and settlement of those options.

The Commission agrees with OCC that the proposal is consistent with Section 17A of the Act, and believes that the proposal should be approved. The proposal enables OCC to provide the same automated clearance and settlement system for NMS stock options that OCC currently provides for other options. That system has proven to be safe and efficient over OCC's years of experience with it, and the Commission believes that it will prove equally successful for NMS stock options. The Commission therefore finds that the proposal is consistent with the Act in general, and in particular with Section 17A of the Act.[8]

The Commission finds good cause for approving the proposal prior to the thirtieth day after publication of notice of the proposal. OCC ability to issue options on NMS stocks, and to clear and settle transactions in such options, is a prerequisite to commencement of exchange and over-the-counter trading in NMS stock options as envisioned by the exchanges, the NASD and the Commission. The Commission agrees with OCC that without approval of OCC's proposal, the Commission's Orders approving the commencement of NMS stock options trading could not be given practical effect. In addition, the Commission agrees with OCC that the proposal does not raise any issues that were not addressed by the Commission and public commentators during the Commission's extensive deliberations about the several NMS stock option trading proposals. Rather, the proposal is but one of several self-regulatory organization rule changes anticipated by the Commission as necessary before its Orders approving trading in NMS stock options can be implemented. The Commission therefore is approving the proposal on an accelerated basis.

Written data, views and arguments concerning the proposal are invited within 21 days from the date this notice is published in the **Federal Register.** Please file six copies of comments referring to File No. SR–OCC–85–6, with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549, by June 25, 1985.

Copies of all documents related to the proposal, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, may be inspected and copied at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C., and at OCC's principal offices.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SC–OCC–85–6) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85–13448 Filed 6–3–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–22086; SR–PHLX–85–13]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change

May 29, 1985.

The Philadelphia Stock Exchange, Inc. ("Phlx"), submitted on May 10, 1985, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 thereunder, to amend Exchange Rule 101 relating to the Phlx's hours of business. The proposed rule change provides that foreign currency option transactions may commence on the Exchange at 8:00 a.m. on each business day. The rule currently provides for an 8:30 a.m. commencement.

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change within 21 days from the date of publication of the submission in the **Federal Register.** Persons desiring to make wirtten comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR–Phlx–85–13.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 5th Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available at the principal office of the Phlx.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to self-regulatory organizations and in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in the Phlx desires to initiate trading at 8:00 a.m. on Monday, June 17, 1985, the first day after the June expiration. The Exchange states that the proposed rule change will permit additional time which Phlx foreign currency options markets can be accessed and therefore will permit additional time for hedging of foreign currency risk. The Exchange has informed the Commission that it will notify its members of the rule change at least two weeks prior to the actual initiation of the time change.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

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[8] The Commission expects OCC to file promptly with the Commission under Securities Exchange Act Rule 19(b)(4) any further OCC By-Law and Rule changes that OCC determines are necessary for clearance and settlement of NMS stock options.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-13442 Filed 6-3-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14543 (File No. 812-5676)]

Sears Corporate Investment Trust; Notice of Application

May 29, 1985.

Notice is hereby given that Sears Corporate Investment Trust (and Subsequent and Similar Series of Trusts) ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as a unit investment trust, c/o Dean Witter Reynolds Inc., Unit Investment Trust Department, 5 World Trade Center, New York, New York 10048 filed an application on October 13, 1983, for an order, pursuant to Section 45(a) of the Act, granting confidential treatment for the profit and loss statements of its sponsor, Dean Witter Reynolds Inc. ("Sponsor"), filed with the Commission from time to time in connection with registration statements of Applicant. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below. Such persons are also referred to the Act for the complete text of the provisions referred to herein.

According to the application, Sears Corporate Investment Trust, Series 1 and all subsequent Trusts and all similar series of Trusts to be included in the order will be sponsored by the Sponsor. Applicant represents that Series 1 is, and each future Trust will be, governed by a trust indenture and a Standard Terms and Conditions of Trust for that Trust (collectively, the "Trust Agreement") under which the Sponsor will act as depositor, United States Trust Company of New York will act as trustee ("Trustee") and Interactive Data Services, Inc. will act as evaluator. Applicant states that the Trust Agreement for each Trust will incorporate standard terms and conditions of trust common to all Trusts.

Applicant represents that apart from the Sponsor's obligation under the Trust Agreement to recommend the disposition of underlying portfolio securities for certain limited reasons described in the application (which obligations may be performed by the Trustee or successor Sponsor if not performed by the current Sponsor), the Sponsor functions solely as an underwriter of the Trusts. Applicant submits that investors in the Trusts are not offered an opportunity to acquire any interest whatsoever in the Sponsor and there is no legitimate interest on the part of investors in the public disclosure of the profit and loss statements of the underwriters from whom Trust units are purchased. Applicant maintains that public disclosure of such financial information is neither necessary nor appropriate in the public interest or for the protection of investors. According to the Applicant, to the extent that the Sponsor's solvency may conceivably be thought to be relevant to the maintenance of the secondary market in the units of the Trusts, the Sponsor's statement of financial condition, which is filed with the Commission and various stock exchanges and is readily available to the public, contains fully adequate information in this regard.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 19, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-13444 Filed 6-3-85; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Designation of Disaster Loan Area #6303]

Arkansas; Designation of Federal Action Economic Injury Loan Area

Poinsett County in the State of Arkansas constitutes an economic injury area as a result of the following Federal action pursuant to section 7(b)(3), as amended, of the Small Businesses Act: 1983 Payment-In-Kind Land Diversion Program.

The date of said Federal action is: 1983 crop season. Eligible small businesses without credit elsewhere may file applications for economic injury until the close of business on February 24, 1986, at the address listed below: Disaster Area 3 Office, Small Business Administration, 2306 Oak Lane, Suite 110, Grand Prairie, Texas 75051 or other locally announced locations. The interest rate for eligible small business applicants is 8 percent. This time period is subject to change in accordance with the requirements of the Federal budget.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: May 24, 1985.

Robert A. Turnbull,

Acting Administrator.

[FR Doc. 85-13255 Filed 6-3-85; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2189]

North Carolina; Declaration of Disaster Loan Area

Burke County and the adjacent Counties of Caldwell, McDowell and Rutherford in the State of North Carolina constitute a disaster area because of a forest fire which occurred on April 1-18, 1985. Applications for loans for physical damage may be filed until the close of business on July 22, 1985, and for economic injury until the close of business on August 1, 1985, at the address listed below. Disaster Area 2 Office, Small Business Administration, Richard B. Russell Federal Bldg., 75 Spring St., S.W., Suite 822, Atlanta, GA 30303; or other locally announced locations.

Interest rates are:

	Percent
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses without credit available elsewhere	4.000
Businesses (EIDL) without credit available elsewhere	4.000
Other (non-profit organizations including charitable and religious organizations)	11.125

The number assigned to this disaster is 218905 for physical damage and for economic injury the number is 630000.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: May 23, 1985.

Robert A. Turnbull,

Acting Administrator.

[FR Doc. 85-13251 Filed 6-3-85; 8:45 am]

BILLING CODE 8025-01-M

[Designation of Disaster Loan Area # 6253; Amdt. # 2]

Texas; Declaration of Disaster Loan Area

The above numbered Designation (50 FR 2640) and amendment #1 (50 FR 14483) are hereby amended to include the County of Clay. All other information remains the same; i.e., the termination date for filing applications is the close of business on October 10, 1985. This time period is subject to change in accordance with the requirements of the Federal budget.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: May 24, 1985.

Robert A. Turnbull,

Acting Administrator.

[FR Doc. 85-13254 Filed 6-3-85; 8:45 am]

BILLING CODE 8010-01-M

[Application No. 08/08-0146]

UBD Capital, Inc.; Application for License to Operate as a Small Business Investment Company (SBIC)

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102(1985)] by UBD Capital, Inc., 1700 Broadway, Denver Colorado 80274 for a license to operate as a small business investment company (SBIC) under the Small Business Investment Act for 1958 (the Act), as amended, (15 U.S.C. *et seq.)*

The proposed officers, directors and shareholders are:

Name and Title	Percentage of ownership
Richard B. Wigton, 8116 S. Willow Street, Englewood, CO 80113; President/Director	
Donald W. Robotham, 360 Humboldt Street, Denver, CO. 80218; Director	
Jed J. Burnham, 3785 S. Valley Drive, Evergreen, CO 80439; Director	
William J. Rundorff, 7812 S. Hill Circle, Littleton, CO 80123; Secretary	
United Bank of Denver, NA, 1700 Broadway, Denver, CO 80274; Parent Company	100

The Applicant will begin operations with a capitalization of $1,000,000 and will be a source of equity capital and long term loan funds for qualified small business concerns.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including profitability and financial soundness in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 30 days from the date of publication of this Notice, submit written comment on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of the Notice will be published in a newspaper of general circulation in Denver, Colorado.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 24, 1985

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 85-13250 Filed 6-3-85; 8:45 am]

BILLING CODE 8025-01-M

Presidential Advisory Committee on Small and Minority Business Ownership; Public Meeting

The Presidential Advisory Committee on Small and Minority Business Ownership, located in Washington, D.C., will hold a public meeting at 9:00 a.m. until 3:00 p.m., Monday, July 1, 1985, in the City-County Building, 2 Woodward Avenue, 13th Floor Auditorium, Detroit, Michigan, 48226 to conduct such business as may be presented by the Committee members. The meeting will be open to the interested public, however, space is limited.

Persons wishing to obtain further information should contact Mrs. Maurine Fisher, Office of Private Industry Programs, Small Business Administration, Room 602, 1441 L Street, N.W., Washington, D.C. 20416, telephone (202) 653-6851.

Dated: May 29, 1985.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 85-13253 Filed 6-3-85; 8:45 am]

BILLING CODE 8025-01-M

Reporting and Recordkeeping Requirement Under OMB Review

ACTION: Notice of Reporting and Recordkeeping Requirement Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirement to OMB for review and approval, and to publish notice in the **Federal Register** that the agency has made such a submission.

DATE: Comments must be received on or before July 10, 1985. If you anticipate commenting on a submission but find that time to prepare will prevent you from submitting comments promptly, advise the OMB reviewer and the Agency Clearance Officer of your intent as early as possible before the comment deadline.

Copies: Copies of the form, request for clearance (S.F. 83), supporting statement, instruction, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Elizabeth M. Zaic, Small Business Administration, 1441 L. St., N.W., Room 200, Washington, D.C. 20416, Telephone: (202) 653-8538.

OMB Reviewer: Kenneth B. Allen, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, Washington, D.C. 20503, Telephone: (202) 395-3765.

Information Collection Submitted for Review:

Title: Management Assistance Counseling Record

Form No. SBA 1062

Frequency: Description of Respondents: Counselors are required to complete this form. The data is used to plan, monitor and control programs of assistance.

Annual Responses: 450,000

Annual Burden Hours: 135,000

Type of Requests: Extension

Dated: May 28, 1985.

Mike Rabasco,

Acting Chief, Information Resources Management Branch, Small Business Administration.

[FR Doc. 85-13252 Filed 6-3-85; 8:45 am]

BILLING CODE 8025-01-M

Reporting and Recordkeeping Requirement Under OMB Review

ACTION: Notice of Reporting and Recordkeeping Requirement Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirement to OMB for review and approval, and to publish notice in the **Federal Register** that the agency has made such a submission.

DATE: Comments must be received on or before July 8, 1985. If you anticipate commenting on a submission but find that time to prepare will prevent you from submitting comments promptly, advise the OMB reviewer and the Agency Clearance Officer of your intent as early as possible before the comment deadline.

Copies: Copies of forms, request for clearance (S.F. 83s), supporting statements, instructions, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Elizabeth M. Zaic, Small Business Administration, 1441 L St., N.W., Room 200, Washington, D.C. 20416, Telephone: (202) 653–8538.

OMB Reviewer: Kenneth B. Allen, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, Washington, D.C. 20503, Telephone: (202) 395–3785.

Information Collections Submitted for Review:

Title: Pollution Control: Procedure for Guarantee Application
Form No. SBA 1136, 1136A
Frequency: Once per application determination
Description of Respondents: Small business applicants are required to complete these forms to assist in determination of project feasibility and creditworthiness.
Annual Responses: 30
Annual Burden Hours: 1725
Type of Request: Extension
Title: Loan Guaranty Agreement
Form No. SBA 1175
Frequency: Quarterly
Description of Respondents: Participants are required to report this information on whether the accounts are current or not and the outstanding principal balance.
Annual Responses: 20,000
Annual Burden: 20,000
Type of Request: Extension

Dated: May 23, 1985.

Elizabeth M. Zaic,

Chief, Information Resources Management Branch, Small Business Administration.

[FR Doc. 85–13256 Filed 6–3–85; 8:45 am]

BILLING CODE 8025–01–M

Small Business Investment Co.; Maximum Annual Cost of Money to Small Business Concerns

13 CFR 107.302 (a) and (b) limit the maximum annual Cost of Money (as defined in 13 CFR 107.3) that may be imposed upon a Small Concern in connection with Financing by means of Loans or through the purchase of Debt Securities. The cited regulation incorporates the term "FFB Rate", which is defined elsewhere in 13 CFR 107.3 in terms that require SBA to publish, from time to time, the rate charged by the Federal Financing Bank on ten-year debentures sold by Licensees to the Bank. Notice of this rate is generally published each month.

Accordingly, Licensees are hereby notified that effective June 1, 1985, and until further notice, the FFB Rate to be used for computation of maximum cost of money pursuant to 13 CFR 107.302 (a) and (b) is 10.685 percent per annum.

13 CFR 107.302 does not supersede or preempt any applicable law imposing an interest ceiling lower than the ceiling imposed by its own terms. Attention is directed to section 308(i) of the Small Business Investment Act, as amended by Section 524 of Pub. L. 96–221, March 31, 1980 (94 Stat. 161), to that law's Federal override of State usury ceilings, and to its forfeiture and penalty provisions.

Dated: May 24, 1985.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 85–13257 Filed 6–3–85; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 938]

Determination Under the Foreign Missions Act

Pursuant to the authority vested in me under the Foreign Missions Act (Act) (22 U.S.C. 4301 et seq.), I hereby determine that it is "reasonably necessary on the basis of reciprocity or otherwise * * * to adjust for costs and procedures of obtaining benefits for missions of the United States abroad" that certain "benefit(s)" relating to the acquisition of construction supplies and services by the Union of Soviet Socialist Republics for their Embassy complex at Mount Alto in Washington, DC, be obtained through the Director of the Office of Foreign Missions (Director). In accordance with sections 204(b) (A) and (B) and 204(c) of the Act, I hereby approve provision of such benefits from or through the Director on terms and conditions to be established which include measures concerning the provisions of local goods and services, as well as those terms and conditions specified in section 204(c).

Publication of this notice in the **Federal Register** constitutes notice to persons subject to U.S. jurisdiction doing business, providing goods or services, or in contractual relationships with the U.S.S.R. with regard to the construction of the above-mentioned Soviet Embassy complex located in Washington, DC, that terms and conditions are hereby imposed on such construction. Compliance with such terms and conditions is required by the Act. Accordingly, such persons should contact the Director to determine if a specific term or condition provided for under this determination affects the execution, performance, or other action concerning such person's arrangement with the U.S.S.R.

Dated: May 22, 1985.

George P. Shultz,

Secretary of State.

[FR Doc. 85–13431 Filed 6–3–85; 8:45 am]

BILLING CODE 4710–23–M

SYNTHETIC FUELS CORPORATION

Solicitation for Coal or Lignite Gasification Projects

ENTITY: Synthetic Fuels Corporation.

ACTION: Issuance of Solicitation for Eastern Province or Eastern Region of the Interior Province Bituminous Coal Gasification Projects.

SUMMARY: Notice is hereby given that on May 28, 1985 the United States Synthetic Fuels Corporation issued a Solicitation for Eastern Province or Eastern Region of the Interior Province Bituminous Coal Gasification Projects soliciting proposals for synthetic fuel projects to be assisted under Title I, Part B, of the Energy Security Act of 1980 (Pub. L. 96–294).

EFFECTIVE DATE: May 28, 1985.

FOR FURTHER INFORMATION CONTACT: Richard Shanklin, United States Synthetic Fuels Corporation, 2121 K Street NW., Washington, D.C. 20586, (202) 822–6463.

For Copies of the Solicitation Contact: Catherine McMillan, Director of Public Disclosure, United States Synthetic Fuels Corporation, 2121 K Street NW., Washington, D.C. 20586, (202) 822–6460.

United States Synthetic Fuels Corporation.

March Coleman,

Assistant General Counsel–Corporate & Litigation.

May 30, 1985.

[FR Doc. 85–13369 Filed 6–3–85; 8:45 am]

BILLING CODE 7905–01–M

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1980 Forms Under Review by the Office of Management and Budget

AGENCY: Tennessee Valley Authority.

ACTION: Forms under review by the Office of Management and Budget.

SUMMARY: The Tennessee Valley Authority (TVA) has sent to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

Requests for information, including copies of the forms proposed and supporting documentation, should be directed to the Agency Clearance Officer whose name, address, and telephone number appear below. Questions or comments should be directed to the Agency Clearance Officer and also to the Officer of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503; Attention: Desk Officer for the Tennessee Valley Authority, 395–7313.

Agency Clearance Officer: Mark R. Winter, Tennessee Valley Authority, 100 Lupton Building, Chattanooga, TN 37401; (615) 751–2524, FTS 858–2524

Type of Request: Regular Submission

Title of Information Collection: Solicitation of issues of concern regarding safety of TVA nuclear plants

Frequency of Use: Non-recurring

Type of Affected Public: Individuals or households, Federal agencies or employees

Small Businesses or Organizations Affected: No

Federal Budget Functional Category Code: 271

Estimated Number of Annual Responses: 200

Estimated Total Annual Burden Hours: 200

Need For and Use of Information: Using a contractor, TVA is soliciting information from former TVA employees to complete a program of identifying and investigating employee concerns regarding the TVA nuclear program. This is one element of a comprehensive program to assure that safety concerns are brought to TVA's attention for resolution. The program was developed in response to NRC concerns.

Dated: May 24, 1985.

John W. Thompson,

Manager of Corporate Services, Senior Agency Official.

[FR Doc. 85–13349 Filed 6–3–85; 8:45 am]

BILLING CODE 8120–01–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: May 30, 1985.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB (listed by submitting bureau(s)), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed under each bureau. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7221, 1201 Constitution Avenue, NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545–0008
Form Number: IRS Forms W–2, W–2P, W–2AS, W–2GU, W–2VI, W–3, W–3c, W–3cPR, W–3PR, W–3SS, W–3S&L
Type of Review: Extension
Title: Wage and Tax Statement

OMB Number: 1545–0387
Form Number: IRS Form 4419
Type of Review: Extension
Title: Application for Magnetic Media Reporting of Information Returns

OMB Number: 1545–0748
Form Number: IRS Form 2678
Type of Review: Revision
Title: Employer or Payer Appointment of Agent

Clearance Officer: Garrick Shear (202) 566–6150, Room 5571, 1111 Constitution Avenue NW., Washington, D.C. 20224

OMB Reviewer: Robert Neal, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Joseph F. Maty,

Departmental Reports Management Office.

[FR Doc. 85–13370 Filed 6–3–85; 8:45 am]

BILLING CODE 4810–25–M

[Number: 114–3]

Delegation of Authority and Disestablishment of the Office of the Assistant Secretary (Electronic Systems and Information Technology)

Dated: May 17, 1985.

By virtue of the authority vested in me as the Secretary of the Treasury, including authority vested in me by 31 U.S.C. 301, 321(b), and by 44 U.S.C. 3506(b), it is ordered that:

a. The functions delegated to the Assistant Secretary (Electronic Systems and Information Technology) by Treasury Department Order 114–1, March 14, 1983, are hereby delegated to the Assistant Secretary for Management.

b. The functions delegated to the Assistant Secretary (Electronic Systems and Information Technology) by Treasury Department Order 114–2, March 28, 1984, relating to responsibilities of the Senior Official designated pursuant to section 2(a) of the Paperwork Reduction Act of 1980, 44 U.S.C. 3506(b), are hereby delegated to the Assistant Secretary for Management; provided that collections of information contained in any new proposed, temporary or final regulations also shall be reviewed by the General Counsel (or designee) who shall coordinate such collections with the Office of Management and Budget.

c. All personnel, records, property, and unexpended funds of the Office of the Assistant Secretary (Electronic Systems and Information Technology) are transferred to the Office of the Assistant Secretary for Management.

d. Except as provided below, the Office of the Assistant Secretary (Electronic Systems and Information Technology) is hereby disestablished. The position of Assistant Secretary (Electronic Systems and Information Technology) is hereby abolished.

e. The position of Deputy Assistant Secretary (Financial Systems) in the Office of the Assistant Secretary (Electronic Systems and Information Technology), shall remain operational until August 31, 1985, in order to facilitate the orderly coordination and transition of functions related herein. The Deputy Assistant Secretary (Financial Systems) shall provided the Office of the Assistant Secretary for Management with information necessary to assure continuous and effective support to vital operational efforts during the transitional phases of this reorganization.

This Order shall be effective on June 15, 1985. Treasury Department Order

114–1, March 14, 1983, and Treasury Department Order 114–2, March 28, 1984, are hereby rescinded. All other Treasury Department Orders, which are inconsistent with the above, are hereby amended or superseded.

James A. Baker, III,

Secretary of the Treasury.

[FR Doc. 85–13331 Filed 6–3–85; 8:45 am]

BILLING CODE 4810–25–M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 107
Tuesday, June 4, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

FEDERAL ENERGY REGULATORY COMMISSION

"Federal Register" CITATION OF PREVIOUS ANNOUNCEMENT: May 28, 1985, 50 FR 21688.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:00 a.m., May 30, 1985.

CHANGES IN THE MEETING: (1) The following items have been added:

Item No., Docket No., and Company

M-2—Docket No. RM85-17-000, Regulation of Electricity Sales-For-Resale and Transmission Services.

M-3—Docket No. RM85-1-000, Parts A-D, Regulations of Natural Gas Pipelines after Partial Wellhead Decontrol.

(2) The Commission meeting for May 30, 1985, originally scheduled to be held in Room 9306 will be held in Hearing Room A.

Kenneth F. Plumb,

Secretary

[FR Doc. 85-13262 Filed 5-31-85; 9:43 am]

BILLING CODE 6717-02-M

2

INTERNATIONAL TRADE COMMISSION

[USITC SE-85-24]

TIME AND DATE: Wednesday, June 12, 1985, at 2:00 p.m.

PLACE: Room 331, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratification List.
4. Petitions and Complaints.
5. Investigation 731-TA-196 [Final] (Certain red raspberries for Canada)—briefing and vote.
6. Investigation 731-TA-199 [Final] (Certain dried salted codfish for Canada)—briefing and vote.
7. Investigation 731-TA-261 [Preliminary] (12-volt lead-acid type storage batteries from Korea)—briefing and vote.
8. Investigation TA-201-55 (Nonrubber footwear)—briefing and vote on remedy.
9. Any item left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, *Secretary*, (202) 523-0161.

[FR Doc. 85-13466 Filed 5-31-85 10:29 am]

BILLING CODE 7020-02-M

3

NATIONAL TRANSPORTATION SAFETY BOARD

[NM-85-10]

TIME AND DATE: 9 a.m., Wednesday, June 12, 1985.

PLACE: NTSB Board Room, Eighth Floor, 800 Independence Ave., SW., Washington, D.C. 20594.

STATUS: The first six items are open to the public; the last item is closed under Exemption 10 of the government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Railroad/Highway Accident Report:* Grade Crossing Collision of a Florida East Coast Railway Company Freight Train and Indian River Academy Schoolbus, Port St. Lucie, Florida, September 27, 1984.
2. *Aircraft Accident Report:* Vieques Air Link, Inc., Britten-Norman BN-2A-6 Islander, N589 Sa, Vieques, P.R., August 2, 1984.
3. *Safety Study:* "Air Carrier Overwater Emergency Equipment and Procedures".
4. *Pipeline Accident Report:* Arizona Public Service Company, Natural Gas Explosion and Fire, Phoenix, Arizona, September 24, 1984.
5. *Aircraft Accident/Incident Summary Report & Brief of Accident:* Eastern Airlines Boeing 727-225A, N812EA, Miami International Airport, Miami, Florida, November 1, 1983.
6. *Recommendations:* to the Federal Aviation Administration, Concerning Explosive Failures of Tires in Wheel Wells of B-727 Airplanes.
7. *Opinion and Order:* Administrator v. Miller, Docket SE-3701; disposition of the appeals of both parties.

CONTACT PERSON FOR MORE INFORMATION: Catherine T. Kaputa, (202) 382-6525.

Catherine T. Kaputa,

Alternate Federal Register Liaison Officer.

May 30, 1985.

[FR Doc. 85-13492 Filed 5-31-85; 2:07 pm]

BILLING CODE 7533-01-M

federal register

Tuesday
June 4, 1985

Part II

Environmental Protection Agency

Final General NPDES Permit for Oil and Gas Operations on the Outer Continental Shelf (OCS) of Alaska; Norton Sound; Notice

ENVIRONMENTAL PROTECTION AGENCY

[OW-FRL 2843-8]

Final General NPDES Permit for Oil and Gas Operations on the Outer Continental Shelf (OCS) of Alaska; Norton Sound

AGENCY: Environmental Protection Agency.

ACTION: Notice of final general NPDES permit.

SUMMARY: The Regional Administrator, Region 10, is today issuing a final general National Pollutant Discharge Elimination System (NPDES) permit for oil and gas stratigraphic test and exploration wells on the Outer Continental Shelf (OCS) of Alaska.

The final Norton Sound general permit authorizes discharges from oil and gas stratigraphic test and exploration operations only (not development or production operations) in all areas offered for lease by the U.S. Department of the Interior, Minerals Management Service (MMS) during Federal Lease Sale 57 (Norton Sound). A general NPDES permit previously issued (48 FR 54881, December 7, 1983) for this same area expired on June 30, 1984, after which time permits must impose limitations which reflect Best Available Technology Economically Achievable (BAT) and Best Conventional Pollutant Control Technology (BCT).

This general NPDES permit establishes new effluent limitations, standards, prohibitions, and other conditions on discharges from these facilities. These conditions are based on the administrative record. EPA regulations and the permit contain a procedure which allows the owner or operator of a point source discharge to apply for an individual permit instead of coverage under the general permit.

On February 15, 1985, Region 10 of the Environmental Protection Agency published in 50 FR 6385 a notice of the draft general permit which is being issued in final form today. Today's notice reviews the basis for the conditions and requirements in the general permit. Copies of the permit and the Agency's response to comments received are printed below. Changes in the final permit and the justification for the change from the draft permit are presented in the Agency's response to comments.

Requests for Coverage

Written request for authorization to discharge under the general permit shall be provided, as described in Part I.A. of this permit, to EPA, Region 10, at least 60 days prior to initiation of discharges. The 60-day notification requirement will be waived for those permittees who notified EPA during the public comment period for the draft permit. Authorization to discharge requires written notification from EPA that coverage has been granted and that a specific permit number has been assigned to operations at the discharge site. The permit also requires permittees to notify EPA within 7 days prior to the initiation of discharges at the site.

Administrative Record

The administrative record for this permit is available for public review at EPA, Region 10, Room 10D, at the address listed below.

ADDRESS: Requests for coverage and notifications should be sent to: Environmental Protection Agency, Region 10, Attn: Ocean Programs Section M/S 430, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: John Gabrielson or Janis Hastings, Region 10, at the address listed above (telephone (206) 442-1756 or (206) 442-8504, respectively). Copies of today's publication, and the permit will be provided upon request.

SUPPLEMENTARY INFORMATION:

I. General Permits and Requests for Individual NPDES Permits

Section 301(a) of the Clean Water Act (the Act) provides that the discharge of pollutants is unlawful except in accordance with the terms of an NPDES permit. Under EPA's regulations (40 CFR 122.28), EPA may issue a single general permit to a category of point sources located within the same geographic area if the regulated point sources:

(1) Involve the same or substantially similar types of operations;

(2) Discharge the same types of wastes;

(3) Require the same effluent limitations or operating conditions;

(4) Require similar monitoring requirements; and

(5) In the opinion of the Regional Administrator, are more appropriately controlled under a general permit than under individual permits.

In addition, under EPA regulations (40 CFR 122.28(c)(1)), the Regional Administrator is required to issue general permits covering discharges from offshore oil and gas facilities within the Region's jurisdiction. Where the offshore area includes areas, for which separate permit conditions are required, such as areas of environmental concern, a separate individual or general permit may be required by the Regional Administrator.

The Regional Administrator has determined that exploratory oil and gas facilities operating in the area described in this general NPDES permit are more appropriately controlled by a general permit than by individual permits. The decision of the Regional Administrator is based on an evaluation of the section 403(c) Ocean Discharge Criteria (40 CFR Part 125, Subpart M) for discharges from exploratory operations in Norton Basin, and the Agency's recent permit decisions in other Alaskan OCS areas.

Any owner and/or operator authorized to discharge under a general permit may request to be excluded from coverage under the general permit by applying for an individual permit as provided by 40 CFR 122.28(b). The operator shall submit an application together with the reasons supporting the request to the Director, Water Division, EPA, Region 10 ("Director"). A source located within a general permit area, excluded from coverage under the general permit solely because it already has an individual permit (i.e., a permit that has not been continued under the Administrative Procedures Act), may request that its individual permit be revoked, and that it be covered by the general permit. Upon revocation of the individual permit, the general permit shall apply. Procedures for modification, revocation, termination, and processing of NPDES permits are provided by 40 CFR 122.62-122.64. As in the case of individual permits, violation of any condition of a general permit constitutes a violation of the Act that is enforceable under section 309 of the Act.

II. Nature of Discharges and Covered Facilities

The general permit issued today authorizes the discharge of drilling muds, drill cuttings and associated operational wastewaters from exploratory operations in federal waters. Exploratory operations are defined as those operations involving the drilling of wells to determine the nature of potential hydrocarbon reserves. Under the permit, they are limited to a maximum of five wells at a single site. Exploration facilities covered by the Norton Sound general permit are included in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category (40 CFR Part 435).

This general permit authorizes the following discharges: Drilling mud; drill cuttings and washwater; deck drainage; sanitary wastes; domestic wastes; desalination unit wastes; blowout preventer fluid; boiler blowdown; fire

control system test water; non-contact cooling water; uncontaminated ballast water; uncontaminated bilge water; excess cement slurry; mud, cuttings, and cement at the seafloor; and test fluids. Descriptions of discharges are given in Part II.A. of the final permit.

Drilling muds and cuttings are the major pollutant sources discharged from exploratory drilling operations.

III. Statutory Basis for Permit Conditions

Sections 301(b), 304, 308, 401, 402, and 403 of the Clean Water Act provide the basis for the permit conditions contained in the final permit. The general requirements of these sections fall into three categories, which are described below. A discussion of the basis for specific permit conditions follows in Part IV.

A. Technology-Based Effluent Limitations

1. BPT Effluent Limitations. The Clean Water Act requires particular classes of industrial dischargers to meet effluent limitations established by EPA. EPA promulgated effluent limitations guidelines requiring Best Practicable Control Technology Currently Available (BPT) for the Offshore Subcategory of the Oil and Gas Extraction Point Source Category (40 CFR Part 435, Subpart A) on April 13, 1979 (44 *FR* 22069).

BPT effluent limitations guidelines required "no discharge of free oil" for discharges of deck drainage, drilling muds, drill cuttings, and well treatment fluids. This limitation required that a discharge shall not cause a film or sheen upon or discoloration on the surface of the water or adjoining shorelines, or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines (40 CFR 435.11(d)). The BPT effluent limitations guideline for sanitary waste required that the concentration of chlorine be maintained as close to 1 mg/l as possible in discharges from facilities housing ten or more persons. For facilities continuously manned by nine or fewer persons or only intermittently manned by any number of persons, the BPT effluent limitations guideline for sanitary waste required no discharge of floating solids. A "no floating solids" guideline also applied to domestic waste. BPT limitations on oil and grease in produced water allowed a daily maximum of 72 mg/l and a monthly average of 48 mg/l.

2. BAT and BCT Effluent Limitations. All permits issued after July 1, 1984, are required by section 301(b)(2) of the Act to contain effluent limitations for all categories and classes of point sources which: (1) Control toxic pollutants (40 CFR 401.15) through the use of Best Available Technology Economically Achievable (BAT), and (2) represent Best Conventional Pollutant Control Technology (BCT). BCT effluent limitations apply to conventional pollutants (pH, BOD, oil and grease, suspended solids, and fecal coliform). In no case may BCT or BAT be less stringent than BPT. Permits must impose effluent limitations which control nonconventional pollutants by means of BAT not later than July 1, 1987.

BAT/BCT effluent limitations guidelines and New Source Performance Standards (NSPS) are currently under development and will be proposed in the near future for the Offshore Subcategory. In the absence of effluent limitations guidelines for the Offshore Subcategory, permit conditions must be established using Best Professional Judgment (BPJ) procedures (40 CFR 122.43, 122.44, and 125.3). This permit incorporates BAT and BCT effluent limitations based on the Agency's Best Professional Judgment. Previous BPJ determinations for offshore oil and gas exploratory operations were incorporated into the general permits for the Bering Sea and the Beaufort Sea (49 FR 23734, June 7, 1984).

As required by section 304(b)(2)(B) of the Act, in developing the BPJ/BAT permit conditions, the Agency considered the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, the cost of achieving such effluent reduction, non-water quality environmental impact (including energy requirements), and such other factors as the Director deemed appropriate.

The type of equipment and processes employed in exploratory drilling operations are well known to the Agency. Region 10 has issued numerous general and individual permits for such operations. The records for this permit and those earlier permits thoroughly discuss the types of equipment, facilities and processes employed in exploratory drilling operations. Concerning the factor of engineering aspects of the application of various types of control techniques, the only permit limitation based on installation of control equipment is the limitation on the oil content of cuttings. Region 10 established the 10 percent limit based on the use of cuttings washers. All other new permit limitations can be achieved through product substitution, the technology basis for the limitations in this permit. Any costs of achieving the effluent limitations and any non-water quality environmental impacts were also evaluated and a discussion of such evaluations is presented below with respect to any limitation where applicable.

As required by section 304(b)(4)(B) of the Act, the Agency considered the same factors in determining BPJ/BCT permit conditions, but with one exception. Rather then considering "the cost of achieving such effluent reduction," any BCT determination includes "consideration of the reasonableness of the relationship between the costs of attaining a reduction in effluents and the effluent reduction benefits derived, and the comparison of the cost and level of reduction of such pollutants from publicly owned treatment works to the cost and level of reduction of such pollutants from a class or category of industrial sources." BCT effluent limitations cannot be less stringent than BPT; therefore, if the candidate industrial technology fails the BCT "cost test", BCT effluent limitations are set equal to BPT.

The Agency's evaluation of the BAT factors, as discussed above, is also applicable to BCT, as well as to the Agency's best professional judgment determinations of BPT in instances where there is no BPT effluent limitation guideline for a particular wastestream. With respect to the BCT "cost test," all BCT limitations are equal to the BPT effluent limitations guidelines or to the Region's best professional judgment determinations of BPT. Therefore, no incremental cost will be incurred.

B. Ocean Discharge Criteria

Section 403 of the Act requires that an NPDES permit for a discharge into marine waters located seaward of the inner boundary of the territorial seas be issued in accordance with guidelines for determining the degradation of the marine environment. These guidelines, referred to as the Ocean Discharge Critera (40 CFR Part 125, Subpart M), and section 403 are intended to "prevent unreasonable degradation of the marine environment and to authorize imposition of effluent limitations, including a prohibition of discharge, if necessary, to ensure this goal" (45 FR 65942, October 3, 1980).

If EPA determines that the discharge will cause unreasonable degradation, an NPDES permit will not be issued. If a determination of unreasonable degradation cannot be made because of a lack of sufficient information, EPA must then determine whether a discharge will cause irreparable harm to the marine environment and whether there are reasonable alternatives to on-

site disposal. To assess the probability of irreparable harm, EPA is required to make a determination that the discharger, operating under appropriate permit conditions, will not cause permanent and significant harm to the environment during a monitoring period in which additional information is gathered. If data gathered through monitoring indicate that continued discharge may cause unreasonable degradation, the discharge must be halted or additional permit limitations established.

The determination of unreasonable degradation must be based on the following factors: Quantities, composition, and potential for bioaccumulation or persistence of the pollutants discharged; potential transport of such pollutants; the composition and vulnerability of biological communities exposed to such pollutants; the importance of the receiving water area to the surrounding biological community; the existence of special aquatic sites; potential impacts on human health; impacts on recreational and commercial fishing; applicable requirements of approved Coastal Zone Management Plans; marine water quality criteria developed pursuant to section 304(a)(1) of the Act; and other relevant factors. A final Ocean Discharge Criteria Evaluation has been completed for those discharges from exploratory operations in the area covered by this permit.

The Regional Administrator has concluded that, with two exceptions, there is sufficient information to determine that exploratory oil and gas facilities operating under the effluent limitations and conditions in this general permit will not cause unreasonable degradation of the marine environment pursuant to the Ocean Discharge Criteria guidelines. For the two cases for which Region 10 has insufficient information to make this determination, the Region has made a finding that the discharges will not cause irreparable harm while a monitoring program is undertaken. The monitoring results will be evaluated to determine if future discharges are likely to result in unreasonable degradation. The conditions which constitute these two exceptions and the monitoring programs required are discussed below in Part IV.D. Requirements Based on the Ocean Discharge Criteria Evaluation.

C. Section 308 of the Clean Water Act

Under section 308 of the Act and 40 CFR 122.44(i) the Director must require a discharger to conduct monitoring to determine compliance with effluent limitations and to assist in the development of effluent limitations. EPA has included several monitoring requirements in this permit, as listed in the table below.

IV. Specific Permit Conditions

A. Approach

The determination of appropriate conditions for each discharge was accomplished through:

(1) Consideration of technology-based effluent limitations to control conventional pollutants under BCT;

(2) Consideration of technology-based effluent limitations to control toxic and nonconventional pollutants under BAT; and

(3) Evaluation of the Ocean Discharge Criteria assuming conditions in parts (1) and (2) were in place.

Discussions of the specific effluent limitations and monitoring requirements derived from (1) through (3) appear below in Parts B through D, respectively. For convenience, these conditions and the regulatory basis for each are cross-referenced by discharge in the following table:

Discharge and permit condition	Statutory basis
Drilling muds and cuttings:	
Authorized muds and additives only	BAT.
No oil-based muds	BCT.
No diesel	BAT.
Discharge rate limitations	Sec. 403(c).
10% max. oil content of cuttings	BCT.
No free oil	BCT.
3 mg/kg cadmium and 1 mg/kg mercury in barite.	BAT.
Monitoring of metals and toxicity	Sec. 308.
Seasonal/depth related limits, monitoring.	Sec. 403(c).
Monitor volume discharged	Sec. 308.
Inventory of added substances	Do.
Deck drainage:	
No free oil	BCT.
Monitor discharge rate	Sec. 308.
Sanitary wastes:	
No floating solids	BCT.
Chlorine 1.0 mg/l (facilities with more than 10 people).	BCT.
Monitor discharge rate	Sec. 308.
Domestic wastes:	
No floating solids	BCT.
Monitor discharge rate	Sec. 308.
Miscellaneous discharges (discharges 006 to 014 in the permit):	
No free oil	BCT.
Monitor discharge rate	Sec. 308.
Inventory of added substances	Do.
Test fluids:	
pH 6.5–8.5	BCT and marine water quality criteria.
No free oil	BCT.
Oil & grease limits: 48 mg/l monthly avg., 72 mg/l daily max.	BCT.
Monitor volume discharged	Sec. 308.
All discharges:	
No halogenated phenols, sodium chromate, sodium dichromate, or trisodium nitrilotriacetic acid.	BAT.
No floating solids	BCT.

B. BCT Requirements

1. Oil and grease in test fluids. Limited volumes of formation waters which are encountered during testing of the well are authorized for discharge as test fluids. Under BPT, oil and grease in discharges of produced water were limited to a 48 mg/l monthly average and a 72 mg/l daily maximum based on oil/water separation technologies. Since formation waters may be present in test fluids, these limits are applied to the discharge of test fluids under BCT. This limitation is equal to BPT because Region 10 does not have technology performance data available at this time on which to base a more stringent limitation. As this limitation is equal to the BPT level of control, there is no incremental cost involved.

2. Free oil and oil-based muds. No discharge of free oil is permitted from discharges authorized by this permit. Region 10 has determined that the BPT effluent limitations guideline of no discharge of free oil from the discharge of deck drainage, drilling muds, drill cuttings, and well treatment fluids should apply to other discharges, including uncontaminated bilge water, uncontaminated ballast water, test fluids, desalination unit wastes, boiler blowdown, non-contract cooling water, excess cement slurry, blowout preventer fluid, fire control system test water; and mud, cuttings and cement at the seafloor. Thus, the no free oil limitation is Region 10's best professional judgment determination of BPT controls for these discharges. They have been subject to a no free oil limitation in previous permits issued by Region 10, and past practices have not resulted in violations of this limitation. No technology performance data available to Region 10 indicate that a more stringent standard is appropriate at this time. For this permit, therefore, Region 10 has set BCT effluent limitations equal to the BPT level of control and, as such, these limitations impose no incremental costs.

As discussed above, the BCT effluent limitation on free oil for drilling muds is equal to the BPT limitation. The discharge of oil-based drilling muds (with oil as the continuous phase and water as the dispersed phase) is therefore prohibited since oil-based muds would violate the BCT effluent limitation of no discharge of free oil.

The monitoring requirement for determining compliance with the effluent limitation of free oil is in most instances a visual observation of the receiving water. However, the Static Sheen Test is required for monitoring free oil in discharges with the greatest likelihood of oil contamination. These are: (1) Drilling muds and drill cuttings, with the Static Sheen Test required year-round, and (2) deck drainage and bilge water, with the Static Sheen Test

required when ice is present on the receiving water. The Static Sheen Test on drilling muds must be conducted prior to bulk discharges. Thus, a violation of the limitation due to the discharge of oil-contaminated drilling muds can be prevented, something a visual observation of a sheen on the receiving water does not allow.

3. Oil content of cuttings associated with mineral oil-based muds. The discharge of drill cuttings associated with mineral-oil based drilling muds is subject to the no free oil limitation (see 2., above) and to a limitation of the maximum mineral oil content (10 percent, by weight) of drill cuttings.

The limitation of 10 percent, by weight, on the oil content of drill cuttings is based on the efficiency of currently available cuttings washers. Region 10 expects that if oil-based drilling muds are used, drill cuttings would, at a minimum, have to be washed by cuttings washers to meet the no free oil limitation. Therefore, this effluent limitation on the maximum oil content of drill cuttings has been imposed as an additional means to effectively control the discharge of oil from cuttings associated with mineral oil-based muds.

Region 10 expects that cuttings washers with routinely be required only for drilling operations with use mineral oil-based drilling muds and not for all drilling operations. Due to the rare usage of mineral oil-based drilling muds by exploratory drilling operations, very few, if any, Alaskan exploratory facilities will require the installation of cuttings washers. This limitation will not require the Alaskan oil and gas industry to incur any additional cost beyond the cost of monitoring compliance since, at a minimum, such cuttings washers would be required to meet the BCT (equal to BPT) effluent limitation of "no free oil" if oil-based drilling muds are used. Therefore, there is no incremental cost involved, and the limitation passes the BCT cost test.

The permit requires an analysis of drill cuttings for oil content both weekly (during any week when oil-based drilling fluids are used) and immediately on any sample that has failed the Static Sheen Test. The drill cuttings will be monitored daily by the Static Sheen Test. Permittees are required to use one of two analytical methods for determining the oil content of drill cuttings, as specified in the permit: (1) The soxhlet extraction procedure for oil and grease (as specified in 40 CFR Part 136), or (2) the American Petroleum Institute retort distillation procedure for oil.

4. pH. The pH of discharged test fluids (which may have a substantially different pH from that of the ambient receiving water) has been limited to a range of 6.5–8.5 at the point of discharge. In the Agency's best professional judgment, this limitation appropriately equals to BPT level of control. No more stringent standard has been identified by the Agency at this time. Therefore, the Agency is setting a BCT effluent limitation for the pH of test fluids equal to that of BPT. This limitation will ensure that pH changes greater than 0.2 pH unit will not occur beyond the edge of the 100-meter mixing zone (40 CFR 125.121(c)). This requirement has been and is routinely compiled with by operations under previous BPT permits and thus, reflects no cost incremental to BPT.

5. Floating solids. The BCT prohibition on floating solids is equal to the BPT level of control for sanitary wastes. As with the free oil limitations for other waste streams, Region 10 has determined that the BPT effluent limitations guidelines of no discharge of floating solids from the discharge of sanitary wastes should apply to all other discharges as well. Thus, the no floating solids limitation is Region 10's best professional judgment determination of BPT limitations for these discharges. They have been subject to this limitation in previous permits issued by Region 10, and past practices have not resulted in violations of this limitation. No technology performance data available to Region 10 indicate that a more stringent standard is appropriate at this time. Therefore, Region 10 has determined that the BCT effluent limitation on floating solids from these discharges is equal to the BPT level of control. As such, the extension of this limitation to all discharges will involve no incremental cost.

6. Chlorine. The requirement of maintaining residual chlorine levels as close as possible to, but no less than 1 mg/l in sanitary waste discharges for facilities manned by 10 or more people is a BCT determination equal to BPT. There is therefore no incremental cost to the industry.

C. BAT Requirements

1. Diesel oil. The discharge of muds which have been contaminated by diesel oil (i.e., those drilling muds which have contained diesel) or drill cuttings associated with these muds is prohibited. Diesel, which is sometimes added to a water-based mud system, is a complex mixture of petroleum hydrocarbons, known to be highly toxic to marine organisms and to contain numerous toxic and nonconventional pollutants. While this limitation thereby controls the toxic as well as nonconventional pollutants present in diesel, the Agency's primary concern is to control the toxic pollutants. The pollutant "diesel oil" is being used as an "indicator" of the listed toxic pollutants present in diesel oil which are controlled through compliance with the effluent limitation (i.e., no discharge). The technology basis for this limitation is product substitution of less toxic mineral oil for diesel oil.

The Agency selected "diesel" as an "indicator" as an alternative to establishing limitations on each of the specific toxic and nonconventional pollutants present in the diesel-contaminated waste streams. The listed toxic pollutants found in various diesel oils include naphthalene, benzene, ethylbenzene, phenanthrene, toluene, fluorene, and phenol. Diesel oil may contain from 20 to 60 percent by volume aromatic hydrocarbons. The light aromatic hydrocarbons, such as benzenes, naphthalenes, and phenanthrenes, constitute the most toxic major components of petroleum products. Mineral oils, with their lower aromatic hydrocarbon content and lower toxicity, contain lower concentrations of toxic pollutants than do diesel oils. Diesel oil also contains a number of nonconventional pollutants, including polynuclear aromatic hydrocarbons such as methylnaphthalene, dimethylnaphthalene, methylphenanthrene, and other alkylated forms of each of the listed toxic pollutants.

The Region has determined that eliminating the discharge of drilling fluids contaminated with diesel oil will reduce the levels of toxic pollutants present in discharged fluids. Studies show that when the amount of diesel is reduced in drilling muds, the concentrations of toxic pollutants and the overall toxicity of the fluid generally is reduced. Available data clearly establish that diesel oils as a class contain significantly higher levels of toxic pollutants than do mineral oils as a class. It is reasonable and appropriate to conclude that BAT-level control of toxic pollutants (i.e., reduction in concentrations through substitution of mineral oil for diesel oil) will be achieved by regulating diesel oil as an indicator pollutant.

Region 10 has concluded that establishing effluent limitations for each of the seven toxic pollutants present in diesel oil is not economically or technically feasible at this time. The level achievable by BAT controls on the

specific toxics can be calculated using available data on the three mineral oils which have been extensively characterized (see response to Comment 7). However, the limited data on the many diesel and mineral oils, mud formulations, and the various additives used, and on the unquantified effects of drilling all frustrate an attempt to develop specific toxic pollutant effluent limitations at this time.

Not only is it infeasible to establish limitations on the specific toxic pollutants, but to comply with specific limitations on each of the toxic pollutants would be costly and technically complex. The analytical costs for specific pollutant analyses would be much greater than the cost of analyzing for diesel by gas chromatography alone. The high cost of compliance monitoring, which may include awaiting results of analyses, which must be conducted onshore, possibly outside the State of Alaska, also would be unwarranted. Either operators would have to delay discharge until monitoring results confirmed compliance or they would discharge and risk permit noncompliance. A permit limitation that prohibits the discharge of diesel oil is economically and technologically feasible and allows a determination of permit compliance prior to discharge.

The prohibition on the discharge of diesel is a technology-based BAT limitation based on product substitution. Low toxicity mineral oils are available as product substitutes for diesel oil, and do not impose unreasonable additional costs on industry. In the permit proposal the Agency relied primarily on the increased cost of mineral oil over diesel oil as a basis for this determination. For example, mineral oil costs Alaskan operators approximately $2.60 per gallon more than does diesel oil. The increased costs associated with using mineral oil rather than diesel oil for 50 barrels (2,100 gallons) of oil (the maximum amount generally expected in a concentrated spotting or "pill" formulation used to free stuck drill pipe) would therefore be equal to approximately $5,500. Since the frequency of differential sticking of drill pipe and the use of oil-based spotting formulations is low for exploratory operations (less than once per well on an average), this cost would not be incurred for each operation. The Agency has evaluated other costs associated with either diesel or mineral use in response to comments on the draft permit (see response to Comment 10). Both analyses show that the cost associated with the prohibition on the discharge of diesel oil clearly is economically achievable.

In the permit proposal Region 10 proposed to limit "free oil," "oil-based drilling fluids," and "oil content of cuttings" as indicators of toxic pollutants. While the Agency has determined that the proposed effluent limitations will control the discharge of toxic pollutants in these oils, it is unnecessary to designate these pollutants as indicators since the same levels of control have been established under BCT, which are equal to levels of control required by the BPT effluent limitations guidelines. Therefore, redundant limitations under BAT have not been imposed for these pollutant parameters.

2. Mercury and cadmium in barite. The final permit contains limitations of 1 mg/kg mercury and 3 mg/kg cadmium in barite, a major constituent of drilling muds. These restrictions are designed to limit the discharge of mercury, cadmium, and other potentially toxic metals which can occur as contaminants in some sources of barite. An identical limitation is included in the general permits for the Bering Sea and the Beaufort Sea (49 FR 23734, June 7, 1984).

As discussed in the fact sheet for the Bering and Beaufort Seas permits, this limitation under BAT is reasonable due to the availability of substitute products; i.e., Alaskan operators can substitute "clean" barite, which meets the above limitations, for contaminated barite which does not. Numerous offshore exploratory wells have been drilled in Alaska over the past year, and chemical analyses have shown that the barite used has not exceeded the limitations in this permit. Given that "clean" barite is available and that operators in the Bering and Beaufort Seas have been complying with an identical limitation, Region 10 believes that this limitation is both technologically feasible and economically achievable. Region 10 has determined that it is impractical at this time to place the limitations on drilling mud until additional data are collected. See Response to Comment 6. Furthermore, if the limitation were placed on the drilling mud rather than on the barite, it would not be feasible for an operator to determine in advance if the discharge complied with the permit requirements since metals analyses must be conducted at commercial laboratories onshore. Such a requirement may impose costly and unreasonable delays while the analyses were being conducted.

EPA does recognize the possibility of changes in the available supply of "clean" barite. The final permit contains a provision which allows the Water Division Director the discretion to grant a waiver from the limitations on a case-by-case basis if the permittee (1) satisfactorily demonstrates that barite which meets the limitation is not available, and (2) provides results of analyses of the substitute barite. In determining the availability of "clean" barite under this provision, Region 10 will reasonably consider all relevant factors, including the cost of obtaining barite which meets the limitations.

3. Generic muds and authorized additives. The permit limits the discharge of toxic substances in drilling fluids through the generic muds and approved additives concept. The permit authorizes the discharge of only generic drilling muds (listed in Table 1 of the permit) and additives for which acceptable bioassay and chemical data are available. Permittees are required to certify in advance of discharge that only generic drilling muds and authorized additives will be discharged.

Permittees may discharge the specific additives listed in Table 2 of the permit (at concentrations not exceeding the maximum allowable amounts) without special permission. This table is a modified version of Table 2 in the general permits for the Bering and Beaufort Seas (49 FR 23756, June 7, 1984). Over 25 drilling mud constituents and additives have been newly listed as acceptable for discharge. These chemicals have various applications in drilling practice, as outlined in Table 2 of the permit. Region 10 has received numerous requests to allow discharge of these compounds and has determined that they are acceptable for discharge up to the specified concentrations based on bioassay data, chemical data, and other product information. The addition of these additives to Table 2 will simplify the additive authorization process for both the permittees and EPA. The permit contains a provision (see Table 2) which will allow the discharge of additives which are listed in Table 2 of subsequent Region 10 general permits, unless otherwise stated in the new permits. For operations under this permit, any additive receiving authorization in this manner will be evaluated according to the regional criteria used for this permit.

Any discharge of a generic mud which has been modified other than by addition of an additive listed in Table 2 requires submission of information demonstrating that it passes the criteria in Part II.B.1.d.(2) of the permit or prior authorization by Region 10. Permittees may request authorization to discharge additives (including mineral oils) not

listed in Table 2 by submitting appropriate information and bioassay data in advance of discharge. Region 10 will determine whether the use of the requested additives is likely to cause the mud system to be more toxic than Generic Mud No. 1, which is the base formulation which the Agency uses to determine acceptable toxicity levels for discharge of fluids. Other criteria (e.g., persistence and degradation), as appropriate, are also considered in the evaluation process. The permits furthermore contain a provision which allow an exception for the discharge of mineral oil-containing muds which exceed the toxicity of Mud No. 1 if the least toxic available alternative is discharged. See Part II.B.1.f. of the permit and Response to Comments 16 and 21.

In some cases interim authorizations to discharge may be granted if preliminary bioassay data are submitted and the Region determines that additional bioassay testing or other analyses are required. Such testing may be required, for example, to examine possible cumulative or synergistic effects if the additive is to be used in combination with a number of other additives. Because the additional testing may take a considerable amount of time to conduct, interim authorization to discharge may be granted so that operations are not impaired for an unreasonable amount of time. Interim authorizations may also require testing a used drilling mud from a rig.

This approach to limiting toxicity is expected to control the discharge of listed toxic as well as nonconventional pollutants in drilling muds. For example, the toxicity of muds containing lubricants, including mineral oil products, may vary widely, and such additives may greatly increase the toxicity of the mud. Studies on diesel-contaminated drilling muds have shown toxicity to be strongly correlated with content of aromatic hydrocarbons, which include listed toxic pollutants. Some mineral oils also contain aromatic hydrocarbons which are listed toxics, such as fluorene, naphthalene, and phenanthrene. The toxicity of muds containing these oils is assumed to be caused, in part, by the listed toxic pollutants as well as by the nonconventional pollutants. Region 10 has determined that it is technically and economically infeasible to directly limit the toxic pollutants in drilling muds, as discussed in Part IV.C.1. Therefore, the Region has determined that the toxicity limitations (e.g., generic muds and approved additives) constitute a reasonable approach which is expected to control not only listed toxic pollutants, but other toxic substances (i.e., toxic nonconventional pollutants) as well.

The technology basis for this permit condition is product substitution; i.e., mud additives and components which would cause the toxicity of a mud system to exceed that of Generic Mud No. 1 can be replaced by less toxic mud additives and components.

Under section 308 of the CWA, compliance with this permit condition will be monitored in two ways: First, by requiring that permittees certify that only generic muds and authorized additives will be discharged; and second, by requiring that permittees submit an end-of-well inventory listing all chemicals and the amounts of each added to each mud system. In addition, permittees must analyze one sample from the end-of-well mud system for metals content and toxicity. The metals data will be used to verify that mercury and cadmium limits on barite are adequately controlling metal concentrations in used muds. The Standard Drilling Fluids Toxicity Tests, performed on the end-of-well mud system, will provide a comparison between the toxicity of used muds containing mixtures of additives and the bioassay data submitted on individual additives prior to discharge.

4. Other toxic and nonconventional compounds. Under the permit discharge of the following pollutants are prohibited: Halogenated phenol compounds, trisodium nitrilotriacetic acid, sodium chromate, and sodium dichromate. The class of halogenated phenol compounds includes toxic pollutants, and sodium chromate and dichromate contain chromium, also a toxic pollutant. Trisodium nitrilotriacetic acid is a nonconventional pollutant. The discharge of these compounds was previously prohibited in the BPT general permits for the Beaufort Sea and Norton Sound (48 FR 54881, December 7, 1983) as well as in the BAT/BCT general permits for the Bering and Beaufort Seas (48 FR 23734, June 7, 1984). These compounds are therefore subject to BAT limitations. Because operators complied with this provision in the BPT permit, there is no additional cost to the industry.

D. Requirements Based on the Ocean Discharge Criteria Evaluation

1. Drilling muds, cuttings, and washwater. Additional restrictions on these discharges are necessary to ensure no unreasonable degradation of the environment. The Lease Sale 57 area includes water depths between 5 and 27 meters. Discharge rate limitations on muds and cuttings have been established in the Ocean Discharge Criteria Evaluation process in order to allow adequate dispersion of the discharges. These maximum rates will ensure that acceptable toxicity levels will be met at the edge of the 100-meter mixing zone during open water conditions. During stable ice conditions, we have determined that on-ice disposal will ensure no unreasonable degradation of the environment. This is because at ice breakup, ice will tend to move away from Norton Sound to deeper areas, where the deposited discharges are expected to enter the water column at relatively slow rates.

The computer models used to predict dilution and dispersion of drilling muds and our knowledge of the water currents are not adequate to predict the fate of muds and cuttings discharged into shallow waters during unstable or broken ice conditions. Without this knowledge the Agency has insufficient information to determine that no unreasonable degradation of the marine environment will occur from the discharges. No reasonable alternatives to on-site disposal exist during these ice conditions, however, because the risk to the environment and human safety posed by the transportation of muds and cuttings under these conditions would be unacceptably high. EPA believes that no irreparable harm would occur in the general permit area during a monitoring period to evaluate the fate of such discharges because the projected number and volume of such discharges is relatively small. This permit therefore permits discharges under broken or unstable ice conditions, while requiring a field monitoring program to establish the fate of such discharges. It is not EPA's intention to have all operators in a particular area conducting monitoring studies. The first operator wishing to discharge under broken or unstable ice conditions in an area of concern would likely be required to monitor the fate of discharged muds and cuttings. If this monitoring clearly indicates the potential for biological effects, further evaluation or studies (including biological monitoring) may also be required. Similar monitoring by subsequent operators at other locations would be required only if environmental conditions were substantially different from those at the site of the first monitoring program.

The second case of insufficient information involves the discharge of cuttings which have been associated with oil-based muds. The BCT limitations under this permit authorize the discharge of cuttings with up to 10%

oil content if no free oil results from the discharge of such cuttings. Little is known about the fate and effects of oil contaminated cuttings. However, limited numbers of operations are expected to discharge cuttings from oil-based muds under this permit. Information available to Region 10 does not support a finding that there are reasonable alternatives to discharge. Further, the Region 10 has determined that no irreparable harm would occur if such a discharge is allowed while the required monitoring program is conducted to measure its effects.

2. Other discharges (003–015). These discharges are adequately controlled by the limitations in Parts II.C.–F. of the final permit to ensure no unreasonable degradation of the marine environment due to those discharges.

V. Other Legal Requirements

A. Oil Spill Requirements

Section 311 of the Act prohibits the discharge of oil and hazardous materials in harmful quantities. Routine discharges specifically controlled by the permit are excluded from the provisions of section 311. However, this permit does not preclude the institution of legal action or relieve permittees from any responsibilities, liabilities, or penalties for other unauthorized discharges of oil and hazardous materials which are covered by section 311 of the Act.

B. Endangered Species Act

Based on information in the Ocean Discharge Criteria Evaluations and in the Environmental Impact Statement prepared for Federal Lease Sale 57, EPA has concluded that the discharges authorized by this general permit will neither jeopardize the continued existence of any endangered or threatened species nor adversely affect their critical habitat. Further, EPA requested comments from the U.S. Fish and Wildlife Service and the National Marine Fisheries Service on the draft permit and received no comments on endangered species. EPA will initiate consultation should new information reveal impacts not previously considered, should the activities be modified in a manner beyond the scope of the original opinion, or should the activities affect a newly listed species.

C. Coastal Zone Management Act

The draft permit and consistency certifications were submitted to the State of Alaska at the time of public notice. The State of Alaska has concurred that the activities allowed by this general permit are consistent with the Alaska Coastal Management Plan.

D. Marine Protection, Research and Sanctuaries Act

No marine sanctuaries as designated by this Act exist in the vicinity of the permit areas.

E. State Water Quality Standards and State Certification

No state waters are included in this permit.

F. Executive Order 12291

The Office of Management and Budget has exempted this action from the review requirements of Executive Order 12291 pursuant to section 8(b) of that order.

G. Paperwork Reduction Act

EPA has reviewed the requirements imposed on regulated facilities in this final general permit under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. Most of the information collection requirements have already been approved by the Office of Management and Budget (OMB) in submissions made for the NPDES permit program under the provisions of the Clean Water Act. In addition, the environmental monitoring requirements pursuant to section 403(c) of the Clean Water Act in Part II.B. of this permit are similar to the monitoring requirements that were approved by OMB for the previously issued Beaufort Sea general NPDES permit (June 7, 1984; 49 FR 23734). Comments received during the public comment period on the information collection requirements contained in the draft general permit are addressed in the Response to Comments.

H. Effective Date. The final NPDES general permit issued today is effective immediately. Ordinarily, EPA would issue this permit and allow thirty (30) days before making the final permit effective. However, EPA may, under 5 U.S.C. 553(d)(1) make the permit effective immediately because it relieves a restriction on the regulated community by authorizing the discharge of pollutants in compliance with its terms. Without a permit, discharges of pollutants are prohibited under section 301 of the Clean Water Act. In addition, EPA finds that good cause exists under section 553(d)(3), because a later effective date would result in significant economic loss due to delays in the commencement of exploratory drilling operations. The 30-day period between the date of issuance and the date of effectiveness is provided to afford administrative appeal, and this procedure is not available for general permits.

I. The Regulatory Flexibility Act. After review of the facts presented in the notice of intent printed above, I hereby certify, pursuant to the provisions of 5 U.S.C. 605(b), that this general permit will not have a significant impact on a substantial number of small entities. This certification is based on the fact that the regulated parties have greater than 500 employees and are not classified as small businesses under the Small Business Administration regulations established at 49 FR 5024 et seq. (February 9, 1984). These facilities are classified as Major Group 13—Oil and Gas Extraction SIC 1311 Crude Petroleum and Natural Gas.

Dated: May 22, 1985.

Signed:

Ernesta B. Barnes,

Regional Administrator, Region 10.

Appendix A—Public Comments

Public hearings tentatively scheduled to be held at Anchorage and Nome on March 21 and 22, 1985 were not held due to a lack of expressed interest in hearings at these locations. A public meeting was held on March 19, 1985 at Alakanuk on the Yukon Delta to discuss the concerns of Nunam Kitlutsisti, a non-profit Alaska Native environmental organization.

The following parties responded with written comments during the public comment period:

Alaska Oil and Gas Association (AOGA)
American Petroleum Institute (API)
ARCO Alaska, Inc.
Conoco Inc.
Natural Resources Defense Council (NRDC)
Nunam Kitlutsisti
Texaco U.S.A.
Trustees for Alaska
U.S. Department of the Interior, Fish and Wildlife Service
U.S. Department of the Interior, Minerals Management Service

NRDC, Nunam Kitlutsisti, and Trustees for Alaska submitted comments jointly and are therefore referenced as "NRDC" below.

On April 2, 1985 Exxon Company U.S.A. requested coverage as a permittee under this general NPDES permit.

Significant comments presented during the public comment period and at the public meeting were reviewed by EPA and considered in the formulation of the final decision regarding the proposed permit. These comments and Region 10's responses to the comments are presented below.

1. *Comment:* Conoco Inc. criticized the required notification procedures in this permit. In particular, they felt (a) the request for coverage 60 days prior to discharge was too long; (b) an individual permit number should not be necessary under a general permit; (c) notification of termination of discharges should be reported in the Discharge Monitoring Report (DMR); and (d) the duty to reapply deadline (180 days) is too long.

Response: (a) A 60-day period is necessary to ensure adequate time for Region 10 to determine whether the proposed activity is appropriately covered by this permit and whether the proposed location might require environmental monitoring under Part II.B.3. If environmental monitoring will be required, the specifics of the program will need to be established. (b) When granting coverage under the general permit, an individual permit number is assigned in order to track compliance of the authorized facility with permit requirements. (c) The "Termination of Discharge" notification may be given in a DMR or under separate cover, as long as notification is given within thirty days of each well completion. This notification is required to indicate to EPA's Water Compliance Section that subsequent DMRs for the facility are not required. (d) *Part V.E. Duty to Reapply* is based on 40 CFR 122.21.d. and Region 10 believes at this time that 180 days is necessary to allow sufficient time to issue a new permit.

2. *Comment:* NRDC and the Nunam Kitlutsisti expressed great concern about the ability of EPA to enforce provisions of the permit given the relatively limited enforcement capability, the remoteness of the area covered, and the severity of weather in the permitted areas. It was suggested that an enforcement plan be developed and subject to public review prior to the issuance of any discharge permits.

Response: It is not within the scope of these NPDES permits to rigidly define in advance the way in which enforcement shall occur. EPA, however, routinely targets facilities for compliance verification inspections. Although EPA's staff and resources for on-site monitoring are limited, a joint agreement with the Department of Interior (DOI) was signed on May 31, 1984, which provides for the assistance of DOI's Minerals Management Service personnel in EPA compliance monitoring and inspections efforts. DOI personnel are frequently on-site during rig operations.

3. *Comment:* NRDC strongly recommends that EPA define upset conditions (Part IV.H.2.) in such a way as to eliminate all reasonably foreseeable emergencies that can be planned for in advance. The same comment applies to the bypass provision (Part IV.G.) of the permit.

Response: The parts referred to are drawn directly from the NPDES regulations (40 CFR 122.41(m) and (n)). Definitions of "bypass" and "upset" are included in Part II.A. of the permit. Although NRDC did not provide suggested specific wording, Region 10 believes the permit's wording accomplishes what NRDC requests.

4. *Comment:* AOGA and Conoco commented that the static sheen test is an unreliable and unproven method which is therefore inappropriate for monitoring compliance with the no free oil limitation. AOGA also commented (Attachments 1 and 5) that the static sheen test is appropriate for monitoring on-ice discharges only, "and even then only marginally so." AOGA recommended that "an API retort protocol" be allowed as an alternative test method during ice conditions and suggested that other alternatives such as a visual observation of the receiving water be required during other seasons.

Response: The static sheen test has been demonstrated to be a reliable and reproducible test method. Not only is it appropriate for the harsh weather (including ice-free as well as ice-cover conditions) and prolonged periods of darkness common in Alaska, but it provides operators with an opportunity to avoid permit violations. Drilling discharges can be tested prior to bulk discharge. A visual observation of the receiving water does not have these advantages. Any variability that may be present in a demonstrated laboratory procedure such as the static sheen test will be far less than that of an over-the-side-of-the-deck observation of the receiving water.

The commenters refer to two studies to support their challenge of the static sheen test, one conducted for EPA by CENTEC Analytical Services, Inc. and another conducted by Maurice Jones. The arguments raised ignore two essential features of the regional methodology (Region 10's "Interim Guidance for the Static (Laboratory) Sheen Test."). The regional guidance, which must be used in conjunction with the detailed protocol in Petrazzuolo (1983), was developed to ensure against any possibility of ambiguous results arising from attempts to detect trace amounts of a sheen or from the use of small sample sizes (with the standard-sized test containers). First, a sheen must cover more than one-half of the test container in order to result in a positive reading (i.e., a trace amount of a sheen is a negative finding). Second, only the largest of the three sample sizes originally specified in the methodology (Petrazzuolo 1983) is tested, thereby enhancing the possibility of detecting a sheen for any particular sample (i.e., if drilling mud contains free oil, a larger sample size will result in proportionally greater amounts of free oil).

In EPA's study (CENTEC 1984) 354 separate tests were conducted on 54 samples of muds and cuttings in order to assess the reliability and reproducibility of the test methodology, as originally proposed (Petrazzuolo 1983). The findings clearly support Region 10's application of the test method, as discussed in detail in the record. EPA showed the sheen test to be a reliable enforcement tool that does not give false positive readings (i.e., it does not erroneously detect oil when no oil was added). Contrary to the statement in AOGA's Attachment 5, the test did not give false positive results, even when emulsifiers were added. The test was also reproducible. Repeat tests for any one sample type showed high levels of agreement.

The second study used to support AOGA's comment was conducted by Jones (1985) who had 26 observers evaluate 14 test samples. The study design contains several critical flaws. In particular, the study ignored the two essential features of the Region 10 guidance discussed above. Small samples were used (with the standard-size test container). These results, therefore, must be ignored. The test results for the remaining samples cannot be evaluated according to the regional guidance, which requires a trace of a sheen to be read as a negative result. According to Jones' study design and unlike the EPA study (CENTEC 1984), observations of both trace amounts and greater than trace amounts were scored as positives.

Jones furthermore failed to follow specified requirements for lighting conditions and dark test containers (Petrazzuolo 1983). He states that "white dishpans and plastic liners were used due to the relatively low light levels present." By his own admission, "the use of the different colored backgrounds and different lighting conditions could affect result [sic] significantly." These results are used to argue that "variable test conditions (i.e. lighting)" serve to invalidate the procedure. The specified test procedure, however, precludes the use of unsuitable lighting conditions and white test containers. The results of Jones (1985) are inconclusive with regard to Region 10's test method. See further discussion in the record.

Region 10 advises that CENTEC (1984) should be consulted for the EPA test data since Jones (1985) contains several critical typographical errors or omissions in Table 3 ("Results of Sheen Tests by CENTEC Analytical Services").

AOGA did not supply any data demonstrating the suitability of the retort test as a substitute for the sheen test, and Region 10 has no information on the validity of using the retort test for this purpose. Operators are encouraged to supply EPA with study results should they become available from the industry study proposed to address this issue (see AOGA's Attachment 8).

5. *Comment:* AOGA and Conoco requested that Region 10 remove the effluent limitations on mercury and cadmium in barite which "create an unjustified risk to industry of becoming a national precedent" (quote from AOGA). The commenters argue that the discharge of these metals in barite pose no hazard to the marine environment and that the Agency has not fully assessed the potential cost of "limiting Alaska exploratory operations to only one source of barite" (AOGA). Conoco asserts that "the requirement that only barite from Nevada be allowed for use in Alaska may very well be an 'act in restraint of trade' " and contends that the limitation will have nationwide impact on barite costs, affecting not only large but also small oil and gas products. AOGA submitted Attachments 6 and 8 in support of their comments.

Response: The permit limitation is a BAT effluent limitation. Findings under section 403(c) (assessment of "hazard to the marine environment") were not the basis for the limitation. The section 403(c) evaluation assumed that discharged muds would reflect BAT level control. The record, however, demonstrates an environmental concern due to the toxicity and bioaccumulation of mercury and cadmium in other types of wastes and the lack of information on the chemical nature and ultimate bioavailability of these toxic heavy metals in drilling muds. Industry has, in fact, acknowledged the lack of information in these areas (see proposed Offshore Operators Committee studies in AOGA's Attachment 8).

While the use of Nevada barite was the basis for Region 10's determination regarding product substitution of uncontaminated barite for contaminated barite, the permits do not necessarily restrict operators to using Nevada barite. Nevada barite however is the major domestic source of barite and the current principal source for Alaskan operations. Nevada barite is a bedded deposit, which is characteristically low in trace metals. Vein deposits, however, may also have acceptable levels (AOGA's Attachment 6, Kramer et al. 1980).

The demand for barite by Alaskan operators is not expected to significantly alter barite costs since offshore wells in Alaska account for less than two percent of the total offshore wells drilled in the U.S. Moreover, the permit provides an exemption in cases when the operator is unable to comply due to the lack of barite which meets the limitations. The commenters did not address this provision in their comments.

Attachment 6 (AOGA) fails to provide any useful new data. First, the discussion addresses the impact of more stringent limitations (2 mg/kg cadmium and 1 mg/kg mercury) than were proposed in the draft permit (3 mg/kg cadmium and 1 mg/kg mercury). Second, data on the percent of barite sources (domestic and foreign) that could meet the assumed (incorrect) limitations are presented only in summary form, frustrating any interpretation of the impact of Region 10's proposed limitations on the use of worldwide barite sources in Alaska. Third, the discussion addresses the impact of the assumed (incorrect) barite limitations if they were to be imposed nationwide. Region 10, however, has made a case-specific determination for operations offshore of Alaska and is not required to assess the impacts of this limitation if it were to be imposed nationwide. This issue will be addressed in the guidelines development process or by each region on a similar case-by-case basis, taking into account the cumulative effects of established restrictions. Finally, the comments do not provide information pertinent to Region 10's specific request in the permit proposal (40 FR 6390, February 15, 1985) for "any increased costs that a permittee incurred in meeting the barite limitations contained in the general permits for the Beaufort and Bering Seas."

With respect to small operators, Region 10 notes that only major companies are expected to operate exploratory wells in remote offshore regions of Alaska. Extensive planning and a large financial commitment are required (see Lewis 1983). Leases in the Norton Sound Sale 57 area are held by large oil companies.

6. *Comment:* NRDC, Trustees for Alaska, and Nunam Kitlusisti ("NRDC") recommended that the mercury and cadmium limitations be placed on drilling muds at levels of 1 mg/kg for each metal. These drilling mud limitations would replace the barite limitations.

Response: Barite accounts for 60 to 85 percent of the mass of drilling mud solids and is expected to be the chief source of heavy metals in the discharged muds. Control of heavy metals in barite is therefore expected to control heavy metals in drilling muds. Region 10 has determined that the most practicable approach at this time is to place a limitation on the barite until sufficient data are collected to allow thorough characterization of the levels in discharge drilling muds. The limitation on the barite provides an operator with an opportunity to plan ahead in order to avoid permit violations. Compliance can be determined by sampling barite prior to discharge rather than by sampling and waiting for analyses to be completed on the used drilling mud.

Region 10 notes that while the cadmium limitation on barite may be slightly less strict than the drilling mud limitation recommended by NRDC, Region 10's mercury limitation is theoretically more strict. For example, if all mercury in drilling mud is derived from barite, then barite with 1 mg/kg will be mixed and diluted with other, less contaminated drilling mud solids, resulting in a discharge of drilling mud with less than 1 mg/kg mercury. Region 10's discharge monitoring data show that mercury levels in drilling muds are generally less than 0.9 mg/kg, dry weight. While cadmium levels in discharged muds have been somewhat more variable, the concentrations generally show levels less than 2 mg/kg.

Region 10 will reevaluate these limitations as additional discharge monitoring data on metals in drilling muds are available. The permit requires end-of-well chemical analyses to be conducted on drilling muds from each well.

7. *Comment:* AOGA (Attachments 1 and 11) and Conoco challenge the Region's use of diesel oil as an indicator pollutant for the listed toxic pollutants present in diesel oil. The commenter first argued that diesel oil is a conventional pollutant and that diesel oil is subject only to a BCT limitation. Second, the commenter argued that the Region's use of diesel oil failed to comply with the requirements of 40 CFR 125.3(h)(1), as amended on September 24, 1984 (previously listed as 40 CFR 125.3(g)(1)). Finally, if the Region used diesel oil as an indicator to control the nonconventional pollutants present in diesel oil, AOGA requested that their comments be considered a request for a section 301(g) waiver of all BPT effluent limitations.

NRDC strongly supports the diesel prohibition but suggested that the

Agency provide a more explicit justification for regulating diesel as an indicator.

Response: The Regional believes that it adequately explained in the proposal its bases and justifications for using diesel oil as an indicator pollutant. However, in order to fully respond to comments, the Region will restate and elaborate on its position and explain why its decision fully complies with the requirements in 40 CFR 125.3(h)(1). The Region has also provided new information and further discussion of this comment in the record, which expands the technical basis for the use of diesel as an indicator.

As the Region has discussed in previous notices, diesel oil is a complex mixture of petroleum hydrocarbons. Diesel oil may contain from 20 to 60 percent by volume aromatic hydrocarbons (Thoresen and Hinds 1983). The light aromatic hydrocarbons, such as benzenes, naphthalenes, and phenanthrenes, constitute the most toxic major components of petroleum products (National Research Council 1983, p. 81). One issue raised is whether diesel oil should be regulated as a conventional, nonconventional, or toxic pollutants. The AOGA comment stated that EPA regulations define " 'oil and grease,' *including diesel oil,* as a conventional pollutant" (emphasis in original comment). The Region previously acknowledged that the mixture "diesel oil" is not a listed toxic pollutant; however, the Region also has recognized the presence in diesel oil of numerous listed toxic pollutants including naphthalene, benzene, ethylbenzene, phenanthrene, toluene, fluorene, and phenol. The Region furthermore has identified numerous specific nonconventional pollutants in the mixture "diesel oil," including polynuclear aromatic hydrocarbons such as methylnaphthalene, dimethylnaphthalene, methylphenanthrene, and other alkylated forms of each of the listed toxic pollutants.

The exericse of arguing over which pollutant category in which to place "diesel oil," however, is in a sense unnecessary. The real issue is how best to regulate and control the numerous listed toxic pollutants present in diesel oil. The Region considered and rejected the option of establishing specific numerical effluent limitations for the conventional pollutant oil and grease in drilling fluids, or for the numerous listed toxic and nonconventional pollutants, the presence or concentration of which would be attributable to diesel oil contamination of the drilling fluid. The Region has chosen to use "diesel oil" as an indicator of the many toxic pollutants present in that complex mixture. By prohibiting the discharge of diesel oil, the Region will reduce the discharge of toxic pollutants. The Region's decision to take this approach was reasonable and, contrary to AOGA's argument, in full compliance with the applicable permitting regulations in 40 CFR 125.3(h)(1).

Section 125.3(h)(1) authorizes a permit writer to establish limitations for a conventional pollutant more stringent than BCT, or limitations for a nonconventional pollutant which shall not be subject to modification under section 301 (c) or (g), where (in either case): (1) The pollutant has been identified as an indicator in effluent limitations guidelines or (2) the permit writer makes findings warranting use of the pollutant as an indicator.

In the absence of BAT guidelines, Region 10 has acted pursuant to the second provision. See 40 CFR 125.3(h)(1)(ii). First, § 125.3(h)(1)(ii)(B) requires the Region to identify the toxic pollutants to be controlled by the limitation on diesel oil. The listed toxic pollutants found in various diesel oils include naphthalene, benzene, ethylbenzene, phenanthrene, toluene, fluorene, and phenol. The notice published on February 15, 1985 did not provide an inclusive list; however, in response to comments Region 10 has reevaluated the toxic pollutants in diesel and has also considered recently available information. All of the above toxic pollutants were present in a diesel identified as "Alaska diesel" (Requejo et al. 1984).

Second, § 125.3(h)(1)(ii) (A) and (C) require findings that the indicator limitation reflects BAT-level control for the specific toxic pollutants and that establishing effluent limits on the specific toxic pollutants would be economically or technically infeasible. The BAT-level control for the specific toxic pollutants would be the reductions achievable through use of the technology basis for the limitations. Whether the Region chooses to control the indicator pollutant diesel oil or the specific toxic pollutants, the technology basis would be product substitution, i.e., use of mineral oil instead of diesel oil. A treatment system does not exist that could be installed and used on a rig to reduce toxic pollutants in drilling fluids prior to discharge.

The Region has determined that prohibiting the discharge of drilling fluids contaminated with diesel oil (i.e., substitution of mineral oil for diesel oil in drilling fluids) will reduce the levels of the toxic pollutants present in the discharged fluids. Mineral oils, with their lower aromatic hydrocarbon content and lower toxicity, contain lower concentrations of toxic pollutants than do diesel oils. A report discussed in AOGA's comments and prepared for API by Battelle Laboratories supports the conclusion that the elimination of diesel oil discharges will reduce toxic pollutants discharges (Requejo et al. 1984). AOGA argues in Attachment 11 that the Battelle report "reveals no correlation between diesel concentration and the concentrations of various toxic pollutants" because the concentrations of toxic pollutants vary among different diesel oils. This argument, however, is misdirected. The real issue is whether the levels of toxic pollutants would be reduced by substituting mineral oil for diesel oil. The Battelle report confirms that such a reduction would occur. Appendix I of the report presents the results of analyses for toxic pollutants in three mineral oils and six diesel oils. The results reveal strikingly higher levels of toxic pollutants in the diesel oil samples. For example, naphthalene was detected in only one of the three mineral oil samples and at a level of 0.05 mg/ml. In contrast naphthalene was detected in all six diesel oils at levels ranging from 0.48 mg/ml (mistakenly reported as 0.048 mg/ml in AOGA's Attachment 11) to 3.25 mg/ml. While the levels of naphthalene may vary in diesel oil, as AOGA argues, they routinely and significantly exceed the levels detected in mineral oils. Similarly striking results occurred in the analyses for benzene, ethylbenzene, fluorene, phenanthrene, and phenol, and the alkylated homologues of each of these toxic pollutants, including naphthalene.

It is reasonable and appropriate to conclude that BAT-level control of toxic pollutants (i.e., reduction in concentrations through substitution of mineral oil for diesel oil) will be achieved by regulating diesel oil as an indicator pollutant. The use of mineral oils rather than diesel oils in mud systems will result in a reduction of toxic pollutant levels equivalent to those levels reflecting BAT-level treatment. AOGA contends, however, that Region 10 has not established this fact for "all types of diesel oil." While there may be one diesel oil that may have lower levels of some toxic pollutants than a highly toxic mineral oil, the available data overwhelmingly establish that diesel oils as a class include significantly higher levels of toxic pollutants than do mineral oils as a class. The regulations do not require

EPA to analyze every diesel oil (of which there are many) before concluding that diesel oils contain high levels of toxic pollutants and that controlling the discharge of diesel oils will reduce the discharge of toxic pollutants.

AOGA argues that the Region has not identified specific concentrations of each toxic pollutant which would represent the level achievable by BAT controls on the specific toxics. Such a calculation can be made by multiplying the known concentrations of specific pollutants in mineral oils (e.g., from the Battelle study) by the assumed concentration of oil in the drilling mud, resulting in predicted BAT levels of control. The results of these calculations for numerous toxic pollutants and classes of nonconventional pollutants are contained in the administrative record. The concentrations of these pollutants will vary, as expected, depending on the amount and specific type of mineral oil use. Concentrations of toxic pollutants resulting from 5 percent by volume "Mineral Oil B" in drilling muds, for example, were predicted to range from undetectable amounts of benzene, ethylbenzene, naphthalene, and phenol to up to 10 mg/l of phenanthrene. "Mineral Oil A" and "Mineral Oil C" used in amounts as high as 10 percent of volume in drilling muds would result in undetectable amounts of a number of toxic pollutants and in maximum concentrations for any single pollutant of 5 mg/l naphthalene and 4 mg/l phenanthrene, respectively.

Region 10 has, however, concluded that establishing effluent limitations for each of the toxic pollutants present in diesel oil is not economically or technically feasible at this time. See § 125.3(h)(1)(ii)(C) and today's Notice, Part IV.C.1. Additionally, specific toxic effluent limitations would be contrary to the positions of AOGA and API which request permits that enable operators to determine compliance at the earliest possible date. Either operators would have to delay discharge until monitoring results confirmed compliance or they would discharge and risk permit noncompliance. Delay time while awaiting for monitoring data could result in excessive costs. A permit limitation that prohibits the discharge of diesel oil is economically and technically feasible and allows a determination of permit compliance prior to discharge.

Finally, with respect to the AOGA request that their comment be considered a request for a waiver under section 301(g), Region 10 makes the following observations. First, since AOGA is not a permittee, it is not the appropriate party to request such a waiver. Second, such a request would require more than a one sentence statement. Third, the use of diesel oil as an indicator for toxic pollutants, precludes the issuance of a section 301(g) waiver. See 40 CFR 125.3(g)(1).

8. *Comment:* AOGA challenges the technology basis (i.e., product substitution) for the prohibition on the discharge of diesel in drilling muds contaminated by a diesel "pill" (also known as a "spotting fluid"). The commenter stated that there is a "present lack of alternatives to diesel as the liquid carrier in 'pill' packages to relieve drill pipe sticking problems" and that the use of diesel represents the "state of currently available technology."

Response: AOGA's Attachment 5 contains a review of three published papers to support their challenge of the diesel prohibition. The author of Attachment 5, Maurice Jones, states that the Region has based the limitation "on the assumption that diesel oil can be easily substituted by mineral oil or other less toxic oils." Region 10 considered two of the referenced papers prior to proposal and has evaluated the third, in addition to all other available information, prior to the final permit decision. A discussion of the arguments raised in AOGA's Attachment 5 follows.

Oil-based fluids (both drilling fluids and spotting fluids) include not only the base oil but also chemical additives such as emulsifiers, surfactants, viscosifiers, and barite. Most oil-based fluids also include emulsified water. The thrust of AOGA's argument is that mineral oils are not suitable substitutes for diesel oil because formulations specifically tailored to mineral oils (and especially to their lower aromatic hydrocarbon content) have not been adequately developed. Diesel oil has had longstanding use in drilling muds because it is readily available from a rig's fuel tanks and cheaper than alternative oils. Simply substituting mineral oil for diesel oil in fluid formulations originally developed for diesel does not always achieve favorable results because chemical additives may have differng solubilities and behavior in different types of oil. EPA recognizes that substitution of a mineral oil pill for a diesel pill generally entails the use of chemical packages specially formulated for mineral oil.

Jones, in AOGA's Attachment 5, acknowledges that operationally effective mineral oil-based fluids can substitute for diesel oil-based fluids, provided that chemical additives effective in the base mineral oil can be formulated (see also Jones et al. 1983). As shown in the administrative record, chemical additives have been developed which are compatible with mineral oils. The performance of these fluids has been demonstrated in both the laboratory and the field. Information on a number of different mineral oil-based spotting fluids currently marketed and available for use is also contained in the administrative record for this permit. Such products are routinely requested for use and discharge under Region 10's permits. Neither AOGA nor other commenters present data which refute the demonstrated development and performance of mineral oil-based fluids, including spotting fluids.

Jones furthermore misconstrues the information presented in the three references cited in AOGA's Attachment 5. First, Cowan and Brookey (1984) focus on the cost/efficiency of using mineral oil with additive packages originally developed for diesel. They conclude that present diesel packages can be adapted for use in most new oil systems. They note that the cost/efficiency of such formulations are not optimized for mineral oil as they are for diesel, resulting in some sacrifice of drilling cost/performance. They did not, however, evaluate newer oil-based formulations specifically tailored to mineral oil.

Second, Clapper and Salisbury (1984) discuss the chemistry of additives (primary and secondary emulsifiers) used in specially formulated mineral oil-based fluids. They conclude that "while a wide range of effectiveness exists among new emulsifiers designed for use in mineral oil, new product demands basically have been met."

Finally, Bennett (1983) details the development and application of oil-based fluids specially formulated to accommodate a mineral oil base. The first mineral oil-based fluid was available commercially in 1975 as a spotting fluid for differently stuck pipe. Since that time, oil-based fluids have received widespread application. Bennett concludes that "mineral oil-based fluids posses the same characteristics but also have definite advantages over diesel oil-based drilling and spotting fluids. These characteristics and advantages are shown by laboratory evaluations, laboratory toxicity studies and field case histories." Bennett also notes that many emulsifiers and dispersants used in diesel oil-based fluids are very toxic and that less toxic compounds can be used in mineral oil-based fluids.

In conclusion, available data support Region 10's determination that substitution of mineral oil products for diesel oil formulations is technologically feasible.

9. *Comment:* Both Conoco and AOGA requested that EPA allow the discharge of diesel-contaminated drilling muds resulting from the use of a diesel pill. The commenters suggested that such discharges should be allowed if the operators participate in the Diesel Pill Monitoring Program originally proposed for the Gulf of Mexico (see AOGA's Attachment 7). The study would determine the efficiency of pill recovery and the toxicity and diesel content of discharged muds. Conoco recommended omission of the diesel limitation and use of the visual sheen test (over-the-side-of-the-deck observation of the receiving water) pending the results of the study. AOGA (Attachment 1) recommended a limitation on the increase in oil content resulting from diesel pill use (and recovery) of no more than 0.5 percent by volume, as determined by the API (American Petroleum Institute) retort test.

Response: Region 10 has again evaluated and rejected the option of controlling pollutants contained in diesel by means of diesel pill recovery rather than by product subsititution of mineral oil for diesel. See 49 FR 32745 and 48 FR 54881. The effectiveness of pill recovery has not been demonstrated.

The record demonstrates a potential for a drilling mud system to be significantly contaminated with diesel, at levels of approximately 1.5 percent by volume, from the use of a diesel pill. AOGA, however, suggested setting a limitation on the maximum increase in oil content equal to 0.5 percent by volume, as determined by the API retort method. Even if an operator were able to meet such a limitation with pill recovery, 0.5 percent diesel would be expected to cause significant increases in acute toxicity and in concentrations of toxic substances in drilling muds. See Comment 7.

Region 10 questions whether the API retort method is sufficiently sensitive to accurately measure diesel increases of 0.5 percent. It appears likely that increases in diesel concentration of nearly 1 percent could easily occur with AOGA's proposed limitation and test method due to difficulties in visually detecting small differences on the measuring scale (i.e., distances along the scale of approximately two hundredths of an inch correspond to a measure of 0.5 percent oil). The lack of sensitivity of the test measurement would allow significant increases in the concentration of toxic substances in the discharge.

Region 10 also disagrees that the visual sheen test of the receiving water provides "adequate control for discharges of mud and cuttings containing small amounts of diesel" (comment by Conoco). The National Research Council ("NRC", 1983, p. 162) reported that drilling muds containing as much as several percent diesel may not cause a sheen.

In conclusion, Region 10 has evaluated alternative control technologies and suggested control parameters (API retort oil content and sheen on the receiving water). The Region has determined that the prohibition on the discharge of diesel-contaminated drilling muds is reasonable and appropriate since diesel pill recovery is unproven and substitution of a mineral oil pill for diesel is technologically feasible and economically achievable.

10. *Comment:* Conoco noted that "the costs quoted by EPA for use of mineral oil over the costs for diesel do not consider the additional handling, storage, etc. required for mineral oil."

Response: Conoco failed to provide any pertinent information on such costs. Unlike Conoco, other members of AOGA have operated offshore exploratory wells under Region 10's permits (which have prohibited the discharge of diesel since 1983). AOGA, however, did not challenge Region 10's evaluation of costs associated with substitution of mineral oil spotting fluids for diesel pills. Conoco, in fact, did not directly challenge Region 10's conclusion but only whether the costs for the "additional handling, storage, etc." required for mineral oil were considered. Region 10 is, therefore, providing the following supplementary information on the costs associated with mineral oil use. The following cost estimate is derived from API figures (Attachment 7 to AOGA's comments), except where data believed to be more accurate are available. These additional costs have not changed Region 10's final determination regarding economic achievability of the effluent limitation (diesel prohibition). The details of this analysis are in the administrative record. It is summarized as follows:

The total cost per mineral oil pill is estimated to be $22,765.

A diesel pill is estimated to cost as little as $18,500. Additional costs incurred by use of the diesel pill, including tank storage for the pill and hauling of it to shore, make the total cost for use of diesel pills between $19,700 (assuming 200 barrels are disposed of downhole) and $32,200.

While the above figures provide only general cost estimates, they clearly demonstrate the economic feasibility of produce substitution of a mineral oil pill for a diesel pill.

11. *Comment:* Conoco commented that a GC analysis should not be required since the test results may convey confidential business information due to the exploratory nature of the wells.

Response: EPA has procedures for handling confidential business information. If appropriate, the gas chromatograms will be held in confidentiality by the regional office in accordance with 40 CFR Part 2, Subpart B. The determination stating whether or not diesel was present in the drilling mud will, however, in any case not be eligible for confidential treatment since this determination is required for tracking compliance with the permit conditions. Region 10 does not believe that a statement of whether or not diesel is present conveys confidential business information.

12. *Comment:* AOGA and Conoco requested that a certification statement that diesel was not discharged in muds should replace the requirement for monitoring diesel in drilling mud. Conoco suggested that a certification statement should suffice for other monitoring requirements as well. NRDC fully supported the monitoring requirement for diesel.

AOGA (Attachment 11) requested that the cost of the diesel monitoring requirement be borne by EPA. Regarding general costs of monitoring, AOGA noted that monitoring requirements under the Bering/Beaufort general permits cost from $2,000 to $8,000 per well for analyses plus about $30,000 for an onsite technician.

Response: Monitoring requirements for diesel in discharged drilling muds in addition to a number of other monitoring requirements have been established in order to assure and determine compliance with permit effluent limitations. These conditions are imposed in accordance with 40 CFR 122.44(i) and section 308 of the Act. Compliance monitoring with the permit conditions is the responsibility of the permittee. EPA conducts testing only for compliance inspections. EPA has determined the the diesel prohibition and other effluent limitations are economically achievable. The analytical and sampling costs and the cost of a technician, if one were required, do not present costs which make the limitations economically unachievable. Sampling to determine compliance with BAT effluent limitations is expected to require limited effort. The most frequent

monitoring is required to determine compliance with the BCT effluent limitation on free oil in muds and cuttings. This limitation and its monitoring requirement are the same as those incorporated under Region 10's previous BPT permits.

13. *Comment:* AOGA (Attachment 11) and Conoco commented that the GC test method "has been found to mistakenly identify mineral oil as diesel in two recent cases already; one in a laboratory study and one in a monitoring situation" (quote from AOGA). The commenters requested that this test method be deleted (see Comment 12).

Response: Region 10 is familiar with two instances in which industry has claimed that the GC method has erroneously identified the presence of diesel oil. In neither case did the data support this claim. In both instances, the requirement for a comparison of the GC "fingerprint" was ignored. The method in the administrative record for this permit states that "the major peaks present in the standard (e.g., those greater than 1 percent of the total integrated area) should also be present in the sample and in the same relative intensity and pattern."

In the first case, API claimed that the Battelle study (see Comment 7) shows that one mineral oil (Mineral Oil B) cannot be distinguished from diesel oil. In the second case, ARCO claimed that GC data submitted with a Discharge Monitoring Report for operations in the Bering Sea erroneously identified diesel oil in drilling mud when only mineral oil was present. The record (containing the Agency's response to these two cases, and supporting analyses) clearly demonstrates the error of industry's conclusions. ARCO, in fact, recently concurred with Region 10's conclusions regarding the second case, above (letter dated May 10, 1985).

AOGA (Attachment 11) states that while the GC method will cost up to $200 per sample, an "adequate method" (assumed to be gas chromatography/mass spectrometry) will cost as much as $2,500 per sample. Due to these cost considerations and the general reliability of the GC method, Region 10 does not believe that a more sophisticated, costly analytical method is required for general effluent monitoring purposes. The permit, however, will allow the use of GC/MS to provide greater resolution of the drilling mud "fingerprint," if an instance should arise where the operator and EPA determine that greater resolution is required to make a determination. Region 10 emphasizes, however, that the GC chromatogram was fully adequate in both cases mentioned above to determine that the presence of diesel was unlikely.

14. *Comment:* Conoco stated in a general comment that "Region X appears to have adopted the 'product substitution' rationale without full consideration of the true costs involved."

Response: Region 10 believes that it has adequately assessed costs for all requirements based on product substitution. The costs for product substitution of mineral oils and barite have been addressed. See Comments 5 and 10. It can be assumed that additional costs may be involved in substituting less toxic additives for more toxic ones, as required to meet toxicity limitations. While industry has not provided information on costs of such additives, Region 10 does not believe that there are substantial costs involved beyond those already quantified. One clear example known to Region 10 of increased costs from product substitution of drilling mud additives (other than mineral oil) would occur if starch containing toxic paraformaldehyde is substituted with a cellulose polymer. Starch is generally used in amounts of 2 to 6 pounds per barrel; amounts of cellulose polymer are generally less (approximately 2 pounds per barrel). If, for a particular drilling mud, the maximum amount of starch were substituted by approximately 2 pounds per barrel of cellulose polymer, the overall product cost would increase approximately two-fold. The increased cost of the drilling mud, however, would not be substantial, even if other polymers were required, since these additives are not expected to be major drilling mud constituents or among the most costly components of the mud.

In conclusion, Region 10 has adequately addressed and evaluated costs associated with product substitution and has made a reasonable determination that they are economically achievable.

15. *Comment:* NRDC commented that the discharge of chromium should be prohibited under BAT through the use of product substitution.

Response: While NRDC stated that substitutes for chrome lignosulfonates, such as iron lignosulfonate, are available, they did not provide any supporting data. Region 10 has no information at this time that would allow a finding that it is technologically feasible to limit chromium in drilling muds through product substitution.

16. *Comment:* NRDC objected to the mineral oil provision which permits operators to discharge drilling muds more toxic than Mud No. 1 by demonstrating that no other less toxic mineral oils are available. NRDC recommended deletion of the provision or incorporation of a clear definition of the term "available" as "the only type of mineral oil that can perform the specific function required, not the only type of mineral oil on the rig at the time it is needed."

Response: Region 10 originally incorporated this provision in the general permits for the Bering/Beaufort Seas in recognition that the Agency had limited information on the "characteristics, applications, and toxicities of all available mineral oil." (49 FR 23736, June 7, 1984). Region 10 has determined that there continues to be a lack of information on the effects of mineral oil products on drilling mud toxicity. Available data on several products indicate, however, that their use in most discharged muds would not cause the toxicity to exceed that of Mud No 1. Interim authorizations, requiring bioassay testing of the used drilling mud, are generally granted for the discharge of these products. However, few of the products have actually been used and discharged.

Region 10 has therefore determined that the provision should remain in the permit. The Region generally agrees with the intent of NRDC's comment. The word "available" will be interpreted by the Region in a reasonable manner on a case-by-case basis, with a consideration of both product performance and availability. As a number of mineral oils have been requested for discharge in Region 10, the Region believes that there are several alternative mineral oils generally available for use offshore of Alaska. These products will be evaluated for availability should the use of any one mineral oil cause a drilling mud to be more toxic than the most toxic generic mud.

17. *Comment:* All industry commenters recommended that the permit allow participation in a " 'mud additive approval clearinghouse' that is presently being developed for use by other EPA regions." The clearinghouse would determine, in advance, which drilling mud additives could be discharged. AOGA and Texaco recommended that Region 10 adopt additives lists from other Regions, in particular Region 9, "while awaiting formal development of the list of additives through the clearinghouse program." Conoco recommended that all additives currently authorized by Region 10 for operations under other general permits be included in Table 2 of the permit and that new additives be included in Table 2 as they are authorized.

NRDC supported a requirement for advance evaluation and authorization for the discharge of all muds and additives not listed in the permit tables.

Response: Region 10 supports the idea of a National Clearinghouse. However, this concept is still under development and will not be implemented in the timeframe for this permit. If the Clearinghouse is implemented, Region 10 would expect to use the data base to support the regional evaluations.

In the interim, operators may request prior authorization from Region 10 if they wish to discharge muds other than generic muds in Table 1 with additives in Table 2. The regional process provides operators with the same advance assurance of compliance that they request the clearinghouse program provide, but on a regional basis. Operators wishing to discharge additives not listed in Table 2 must either receive prior authorization or demonstrate that they meet criteria in Part II.B.1.d.(2) of the permit.

Region 10 has responded to the comment by listing a number of new additives used in Alaska in Table 2. Permittees may discharge the specific additives listed in Table 2 of the permit (at concentrations not exceeding the maximum allowable amounts) without special permission. The Region, however, cannot include all additives currently authorized under Region 10 permits because some of them were only approved on a case-by-case basis for specific conditions, and the Region does not have sufficient information to approve them for general use. The permit contains a provision (see Table 2) which will allow the discharge of additives which are listed in Table 2 of subsequent Region 10 general permits, unless otherwise stated in the new permits. For operations under this permit, any additive receiving authorization in this manner will be evaluated according to the regional criteria used for this permit.

Other Regions' lists are not directly transferrable to Region 10. For example, Region 9's list has been in existence for some time, and it includes additives tested by a variety of test methods and test species. Many of these test results are not acceptable under Region's 10's BAT permit, which generally requires that toxicity tests be conducted in accordance with the Standard Drilling Fluids Toxicity Test.

18. *Comment:* Conoco challenged the use of results from the Standard Drilling Fluids Toxicity Test (i.e., bioassays) which, in their opinion, "are merely an indicator with no actual substantiation of their reliability for effectively predicting environmental impacts in real-life situations, particularly at the outer edge of the mixing zone." AOGA also stated (Attachment 1) that a limitation of 250 ppm should be imposed because stricter toxicity limitations were more stringent than necessary to protect marine resources under section 403(c) Ocean Discharge Criteria.

Response: The toxicity limitations are BAT effluent limitations, designed to control the nature and concentration of toxic substances, including designated toxic pollutants, in discharged drilling muds. A standard, 96-hour acute toxicity test is an accepted, standard measure of relative toxicity and an appropriate BAT effluent limitation for the control of toxic substances in the discharge. As a technology-based limitation, Region 10 could not establish an LC_{50} limitation based on the level of toxicity which is minimally necessary to protect against unreasonable degradation of the marine environment.

19. *Comment:* NRDC stated that, according to data from California, an LC_{50} of 30,000 ppm for the suspended particulate phase (i.e., 3,000 whole mud equivalent, according to Region 10's terminology) allows operators adequate flexibility to use and discharge necessary additives in the majority of cases. NRDC expressed concern, however, that bottom dwelling organisms will be exposed to drilling discharges for long periods of time and that the regional toxicity criterion is not based on solid phase testing, which is most directly applicable to these organisms. NRDC noted the lack of adequate solid phase toxicity data. They therefore suggested that Region 10 decrease the drilling mud toxicity level (i.e., raise the LC_{50}) that is allowed under these permits.

Response: Region 10 agrees that solid phase toxicity data would aid in assessment of the environmental impacts associated with these discharges and supports the development of a standardized solid phase bioassay protocol. The suspended particulate phase test used in this permit is, however, the best test currently available for the purpose of testing and comparing drilling mud toxicities in a standardized fashion. This test is used to limit drilling mud toxicity under BAT. Product substitution of less toxic additives for more toxic ones is the basis for Region 10's BAT determination that drilling muds no more toxic than the most toxic generic mud should generally be discharged. Increasing the LC_{50} level (decreasing the allowable toxicity) would potentially eliminate one of the generic muds, generic mud No. 1, from discharge. Region 10 does not have data which indicate that this mud type can be substituted by one of the other, less toxic generic muds. Nor has Region 10 determined, based on available data, that more restrictive effluent limitations are required under section 403(c).

20. *Comment:* Conoco requested deletion of one of the toxicity screening criteria which give operators flexibility to discharge additives prior to authorization if the additive does not cause a substantial increase in drilling mud toxicity. See Part II.A.1.d.(2)(b) of the permit. This formula defines the level of increase in drilling mud toxicity which is allowed due to the discharge of additives prior to their authorization. Conoco stated that the provision is "impracticable and without technical bases."

Response: The purpose of this provision is to provide flexibility for operators to discharge relatively nontoxic additives without special EPA authorization to discharge. If the drilling mud containing the additive(s) passes the criteria in Part II.B.1.d.(2) of the permit, the discharge will have complied with the permit conditions. An operator need not use these provisions if authorization to discharge additives is requested beforehand. Although this approach in essence establishes a toxicity limitation for the discharge of unauthorized additives, similar to AOGA's proposal for unauthorized muds and/or additives, the Region's criteria are far stricter. The Region determined that only minor increases in drilling mud toxicity resulting from unauthorized additives should be allowed prior to EPA's granting authorization. For additives which cause a substantial increase in toxicity, the Region has adopted a regional evaluation/authorization process. When conducting evaluations/authorizations prior to discharge, the Region has an opportunity to assess the adequacy of the toxicity test results (which are often incomplete and on occasion invalid), the necessity for additional information, the chemical nature of the product, and available information on long-term persistence of the constituents.

The basis for this screening criterion is discussed in detail in the administrative record for this permit and in the record for the Bering/Beaufort Seas general permits. The assumption behind Region 10's approach is that toxicities of drilling mud additives will behave in an additive fashion rather than a synergistic one. The limitations of this approach are carefully noted. Conoco did not note specific impracticalities or deficiencies in the technical basis. Their objection to the provision, which is based on the

assumption that toxicity is additive rather than synergistic, is unclear to Region 10 since Conoco also commented elsewhere in their comment letter that they agree that "toxicities of the various components in mud systems should be assumed for bioassay purposes to be somewhat less than additive and certainly not synergistic."

21. *Comment:* Industry commenters requested (1) "emergency" discharge provisions and (2) less stringent or no toxicity limitations. These comments are stated in greater detail below.

AOGA, a "trade association whose member companies account for the bulk of oil and gas exploration, production and transportation activities in Alaska" requested that the permit require "certification of no discharge of any unapproved mud or additive except in emergency situations." AOGA further requested that the permit state, "Where an unapproved mud and/or additive is used, an LC_{50} for the whole mud, in the range of 250 (plus or minus 100) ppm will be imposed, pending the approval of the mud and additive through the clearinghouse program. Failure to pass the LC_{50} limit will *prohibit the discharge* of such muds" (emphasis added).

Although Texaco recommended imposition of the same drilling mud toxicity limitation as AOGA, Texaco, however, stated that "data gathered from the use of muds and additives not yet approved should be used to enhance EPA's data base and should not be used for enforcement action." Conoco commented that a permittee could not absolutely guarantee that a drilling mud would continually meet a toxicity limitation.

Conoco requested that specific approval for use of mineral oil lubricants or spotting fluids with Generic Mud No. 1 be included in the permit.

Response: Region 10 notes that there is clearly a lack of consensus among industry commenters regarding whether the permit should contain toxicity limitations on the discharged mud and whether compliance with such limitations should be enforced. After carefully considering all comments, the course chosen by Region 10 is to authorize additives prior to discharge in lieu of imposing a toxicity limitation on the used, discharged drilling mud (see previous comment). End-of-well bioassays are required to verify the effectiveness of this approach in controlling drilling mud toxicity. These data will be considered in developing future effluent limitations. Detailed responses to these comments follow.

A. Use of Unauthorized Additives in "Emergency Situations." Region 10 believes that advance planning and bioassay testing of additives is achievable by industry and essential for the control of drilling mud toxicity. Bioassay testing of drilling mud additives discharged from offshore operations has been commonplace for a number of years (Jones and Hulse 1982). Furthermore, operations in these remote locations require contingency planning to deal with "emergency" situations so that necessary additives are on hand. The Region firmly believes that all materials, including those which will be made available when drilling problems are encountered, should be evaluated with respect to their toxicity prior to discharge. Thus, for products with a similar application, those resulting in unacceptable toxicities can be substituted with less toxic products in order to meet toxicity limitations. Although AOGA correctly notes that an emergency use provision was included in earlier permits, such a provision was not included in the BAT/BCT permits for the Bering and Beaufort Seas (49 FR 23734, June 7, 1984).

B. Maximum Allowable Toxicity of Discharged Muds Under BAT.

AOGA and Texaco base the request for a limitation of 250 ppm (whole mud) on two types of drilling muds, a modified potassium chloride ("KCl") mud and generic mud No. 8 with 5 and 10 percent by volume Mentor 28 (a mineral oil). AOGA states that the toxicity of these muds (in the range of 150 to 350 ppm) "represents available technology for present drilling practices * * * practices which necessitate high concentrations of KCl, biocides and mineral oil lubricity agents (to 10%) in some drilling muds."

First, AOGA (Attachments 2 and 3) uses two bioassay tests to argue that Region 10 should acknowledge that up to 10 percent mineral oil in drilling muds will increase the toxicity (decrease the LC_{50}) to approximately 250 ppm (whole mud; 2500 ppm or 0.25% of the suspended particulate phase). These results are not consistent with EPA's data. The bioassay test results have inadequacies which limit their general applicability to determining the effect of mineral oil lubricants on drilling mud toxicity. Further discussion, provided in the administrative record, points out the limitations of current data for developing specific conclusions regarding the effect of mineral oil lubricants on drilling mud toxicity. For these reasons, Region 10 strongly disagrees that the two bioassay tests on generic mud No. 8 with 5 and 10 percent Mentor 28 (AOGA's Attachment 2) should be used as a basis for a toxicity limitation. Region 10 has therefore chosen to limit the class of mineral oil additives as a separate, special case under the terms of the permit. While data on some mineral oil products indicate that their use will not cause the toxicity of Mud No. 1 to be exceeded, there are, in general, limited data on the toxic effects of mineral oils. The permit specifically allows these additives to cause a drilling mud to exceed the toxicity criterion if the least toxic available alternative is used through product substitution. Thus, mineral oil lubricants may be added to Generic Mud No. 1. This mineral oil provision grants operators flexibility through the regional additive authorization process to use mineral oils during the period in which further testing is being conducted.

Second, AOGA (Attachments 2 and 3) requests that the permits allow for the discharge of drilling muds such as Exxon's requested modified KCl mud with 80 lb/bbl KCl, a biocide, 10 percent mineral oil, and numerous other additives. Industry has not submitted adequate data on the technological requirement for this mud system. The numerous inadequacies and unanswered questions in the request to discharge this drilling mud are noted by Region 10 in the record. Region 10 also notes that sloughing shales and other drilling problems discussed in AOGA's Attachments 2 and 3 are not new to the industry. Nor is the drilling of offshore wells in Alaska. These wells to date have been drilled with generic muds and authorized additives. The modified KCl mud was originally requested for drilling a directional well from a stable platform in the Beaufort Sea. Wells in Norton Sound, drilled from jackup or other mobile rigs, are not expected to require directional drilling to the extent that operations in the Beaufort Sea do. Region 10 does not intend to impede advances in drilling technology; however, Region 10 notes that best available technology cannot simply be determined to include all "new" drilling formulations requested by industry. Adequate data and information must be provided.

The Region will continue to use the toxicity level of 3,000 ppm (whole mud equivalent; 30,000 ppm of the suspended particulate phase) as a criterion in addition to other factors (e.g., longterm persistence), as appropriate, in authorizing mud systems.

22. *Comment:* Industry representatives and AOGA made several detailed comments concerning the depth-related limitations on muds and cuttings discharge rates. A technical suppport document, the basis of these limitations, was criticized on two major points: (a)

The Offshore Operators committee (OOC) dilution model should have been used to model dilution in waters of all depths and (b) the standard 96-hour LC_{50} (acutely lethal toxicity level) used to calculate the minimum acceptable dilution at the edge of the mixing zone should have been adjusted for exposure time (said to be less than 1 hour for these discharges).

Response: The "Technical Support Document for Regulating Dilution and Deposition of Drilling Muds on the Outer Continental shelf" (Tetra Tech 1984) is the best analysis available to this agency of the relationship between water depth and dilution rates of discharged drilling muds. The OOC model was not found to reliably simulate the fate of discharges where the discharge plume encounters the bottom with substantial momentum. For this reason, an EPA model was used to simulate discharge dilutions in water depths less than 20 meters. A detailed response by Tetra Tech to this and other technical comments related to the dilution models used has been placed in the Administrative Record.

A 96-hour LC_{50} was used by Tetra Tech to establish maximum discharge rates acceptable in waters of various depths. EPA is required to determine that unreasonable degradation of the marine environment will not occur as a result of permitted discharges. This determination must consider sublethal effects as well as lethal toxicity. LC_{50}'s are defined as the concentration at which 50% of the test organisms will die within a given time of exposure. Standard tests to determine LC_{50}'s are usually done for 96 hours and the resulting 96-hour LC_{50}'s are typically used to evaluate the potential for a substance to cause lethal effects. Sublethal effects are expected to occur at lower concentrations than this.

EPA has determined that exceeding the 96-hour LC_{50} concentration at the edge of the mixing zone would cause unreasonable degradation. The determination of whether unacceptable adverse sublethal effects would result from exposures to concentrations up to the 96-hour LC_{50} level relies on judgment concerning the effects of varying lengths of exposure. Sublethal effects may occur due to short-term acute exposures; however, long-term chronic exposures are in general judged to be more severe. In the case of exploratory wells, discharge of muds and cuttings are sporadic, short-term events. Region 10 has determined that water column exposures will not result in unreasonable degradation of the environment if the 96-hour LC_{50} concentration is met at the edge of the mixing zone during worst case conditions.

23. *Comment:* NRDC recommended stricter discharge rate limitations for muds and cuttings, including no discharge in areas less than 10 meters deep, 500 barrels per hour in areas greater than 10 meters deep, and 10:1 predilution for the remaining areas.

Response: The limitations in the permit are based on the best information available at this time and have been determined by Region 10 to be adequate to protect against unreasonable degradation of the marine environment. See the response to Comment 22.

24. *Comment:* Conoco Inc. stated that the seasonal restrictions in the permit are not "germane." NRDC recommended that no discharge be allowed to shallow waters during unstable or broken ice conditions.

Response: Seasonal restrictions are necessary due to the effects of seasonal ice, generally present in Norton Sound from October into the following June. Current velocities, and therefore, dilution rates during ice conditions, are lower than during the open water season but poorly documented. EPA cannot adequately predict the fate or effects of muds and cuttings discharged to the water during unstable or broken ice conditions (see notice for draft permit, 50 *FR* 6385). Because the projected number and volume of such discharges is small, EPA believes that no irreparable harm would occur during initial exploratory operations. A monitoring program will allow EPA to evaluate the fate of muds and cuttings discharged under these conditions. Based on the results of this monitoring program, discharge limitations may be modified for future operations under similar conditions.

25. *Comment:* Environmental monitoring should be required only for areas of "biological concern."

Response: The permit does not require environmental monitoring for all drilling operations covered by the permit. Only operators who propose to drill and discharge to waters less than 20 meters deep under broken or unstable ice conditions will be potentially subject to this requirement. These are conditions under which EPA currently has insufficient information to be able to make a determination of "no unreasonable degradation" (see 40 CFR 125.123(c) and the discussion in "Supplementary Information"). The monitoring program shall be conducted at one facility initially, with monitoring of subsequent operations (if there are more meeting these conditions) required only in cases where special environmental concerns exist.

26. *Comment:* The inventory of chemicals added to cooling water and desalination systems is unnecessary data gathering.

Response: While Region 10 currently believes discharges from cooling water and desalination systems from exploratory operations to have little effect on the environment, it is important that EPA know the composition of what is being discharged to verify that determination for each permittee. Only substances other than water or seawater in these discharges need be reported.

27. *Comment:* NRDC recommends that the Static Sheen Test be required for discharges of deck drainage and bilge water at all times, rather than just during broken, unstable or stable ice conditions.

Response: Bilge water and contaminated deck drainage are minor discharges, which under this permit, must be passed through an oil-water separator prior to discharge. Region 10 is not aware of any violations of the visual or static sheen tests from these sources in the past, and therefore, believes that during open water conditions the visual sheen test provides satisfactory protection to the environment. During broken, unstable or stable ice conditions the Static Sheen Test is still required as potential sheens would not be visible on the "receiving water."

28. *Comment:* The hydrcarbon analyses required in Part II.B.1.i. of the draft permit are unnecessarily broad and should be deleted.

Response: Region 10 agrees that the hydrocarbon analyses according to Science Applications, Inc. (1984) are unnecessarily extensive for operations under this permit and has deleted this requirement from the final permit.

29. *Comment:* NRDC recommends that formation waters should not be a permitted discharge (especially in areas less than 10 meters deep).

Response: The discharge of formation waters is not permitted under this permit except for those limited volumes which may be present as a part of test fluid discharges. These fluids must be passed through an oil–water separator prior to discharge. The effluent is covered by oil content and pH limitations under this permit. For the exploratory drilling operations expected in Norton Sound, discharges of test fluids including formation water are likely to be small.

30. *Comment:* One commenter suggested that Part V.A. of the permit,

requiring screening for toxic pollutants if the discharge is altered, be deleted. This commenter explained that the provision is not needed because the permittee must certify that the facility will only use approved muds and additives, which do not contain toxic components.

Response: This section of the permit is required under 10 CFR 122.42(a) and applies to all existing manufacturing, commercial, mining, and silvicultural dischargers. EPA believes that this provision is a necessary part of the general permit. The intent of this provision is to ensure that a permittee notifies EPA if any toxic pollutant which is not specifically limited in the permit is or will be discharged at levels which exceed the threshold levels in Part V.A. If Region 10 is specifically notified of listed toxic pollutants contained in a drilling mud additive and if the Region lists such toxic pollutants in the authorization to discharge that additive, then the discharge of such toxic pollutants will be considered to be specifically limited by the permit through the additive authorization.

This provision is appropriate in the current permit because during the five-year term of the permit discharge situations might change. If the permittee knows, or has reason to believe, that such changes in discharge conditions will mean that discharges of toxic components in amounts greater than the notification threshold levels will result, then the permittee must notify EPA of that discharge. EPA will use such notification in deciding whether a new permit or a revision to the current permit is required.

31. *Comment:* U.S. Fish and Wildlife Service (U.S.F.W.S.) supports the need for environmental monitoring (Part II.B.3) and recommends that biochemical oxygen demand (BOD) be included in data to be collected.

Response: When the details of a monitoring program are developed, BOD and dissolved oxygen will be considered as parameters to be measured. U.S.F.W.S. will be consulted at that time.

32. *Comment:* The physical parameters to be measured in the proposed environmental monitoring program have already been measured in the Norton Sound Cost Well No. 2 Mud Dispersion Study.

Response: While the study mentioned was conducted in Norton Sound waters less than 20 meters deep, it was not done under the conditions of interest for the required monitoring in this permit. Not only was there no broken or unstable ice during the test, but the surface current velocity was approximately 77 cm/sec.

33. *Comment:* Monitoring required under section 308 of the Act should be discontinued after one year.

Response: The permit provides for EPA to review the need for monitoring periodically to determine if any requirements are not longer necessary. We cannot, however, determine the adequacy of the data before they are collected and evaluated.

34. *Comment:* Conoco Inc. commented that the comment period of 30 calendar days was too short for such a complex permit.

Response: This permit is the same in most respects to the Bering/Beaufort Seas general permits, which were the first two general permits to incorporate BAT/BCT effluent limitations for the offshore oil and gas industry. Those permits have been challenged by industry, and Conoco is a party to the suit (*API et al.* v. *EPA* in the U.S. Fifth Circuit Court of Appeals). Conoco is therefore familiar with the majority of the issues raised in the Norton Sound permit. Exxon requested issuance of the permit in time for an exploratory well planned for the end of May. Region 10 therefore decided not to extend the comment period.

35. *Comment:* The pH limitation on test fluids is unnecessary.

Response: The great majority of exploratory well test fluids are expected to be within the pH range of 6.5 to 8.5. However, about 50 barrels per test may have a pH of 2 and 100 barrels may have a pH of 2 to 5 (Holliday 1984). Although seawater is fairly well buffered, discharges of these low pH fluids would have immediate, potentially lethal effects in the vicinity of the discharge before dilution and buffering would be able to neutralize the acid.

Since pH is a conventional pollutant, it is controlled under section 402 of the Act. The permit limitation is equal to a BPT level of treatment and is routinely achieved under previous BPT and BAT/BCT general permits for exploratory operations.

36. *Comment:* The permit should contain a volume to mass conversion for drilling mud and drill cutting discharges.

Response: A conversion factor from volume to mass (dry weight basis) would depend on the water content and density of the solids included. These characteristics vary considerably. Conversion factors therefore, would need to be calculated on a case-by-case basis.

37. *Comment:* The administrative record for the Bering/Beaufort general permits should be added in its entirety to the administrative record for this permit.

Response: Those documents which are relevant and were a significant part of our deliberations in developing this permit have been added to the administrative record for the Norton Sound general NPDES permit.

38. *Comment:* The definition of diesel oil should be changed to "ASTM Standard D975 Grade 2–D."

Response: For purposes of this permit, "diesel oil" refers to the fuel oil present on the drilling rig during drilling at the permitted location.

39. *Comment:* Commenters stated that the reduction in oleates in mixed alcohols from 6 to 2 pounds per barrel in Table 2 was unjustified.

Response: In response to comments Region 10 reevaluated all available data on drilling mud additives authorized for discharge under the Region's offshore exploratory drilling permits. Numerous new additives are listed in Table 2 of the permit. The maximum concentration of oleates in mixed alcohols was however reduced. The bioassay report on this additive, tested at a maximum concentration of 3 pounds per barrel, shows an LC_{50} level close to that of the most toxic generic mud. Furthermore, the test was not conducting according to the Standard Drilling Fluids Toxicity Test. Pending additional bioassay testing, Region 10 determined that general authorization should only be given at the lower concentration previously authorized in Table 2 (2 pounds per barrel). This amount is generally adequate for one of its common uses, as a carrier for powdered poorly soluble polymers (e.g., Drispac) added to drilling muds.

40. *Comment:* NRDC recommended that the oil content of cuttings discharged be limited to 5% by weight.

Response: EPA, Region 10, does not have sufficient information at this time on cuttings washer performance and economics to justify reducing the allowable level of oil in cuttings based on this technology. The use of cutting washers will routinely be necessary only for operations which use oil-based drilling muds. Very few, if any operations in Norton Sound are likely to use oil-based drilling muds, based on past exploratory drilling practices in Region 10.

Region 10 evaluated whether a stricter effluent limitation should be imposed under section 403(c). The potential environmental effects of the discharge of oil contaminated-cuttings had not in fact been adequately assessed previous by in the ODCE for Norton Sound. The Region has evaluated this issue since proposal of the draft permit and has determined that there is insufficient

information to make a finding that there will be no unreasonable degradation from the discharge of oil-contaminated drill cuttings in Norton Sound. Limited numbers, if any, of exploratory operations are expected to use oil-based muds and discharge the cuttings, however. Information available to Region 10 does not support a finding that there are reasonable alternatives to discharge. Further, the Region has determined that the discharge of such cuttings is not likely to cause irreparable harm during the period in which monitoring is undertaken. A monitoring requirement has therefore been imposed under 40 CFR 125.123(c).

Although this specific monitoring activity was not proposed in the draft permit, the scope of the monitoring does not differ significantly from that proposed for discharges under ice. Monitoring will be limited to a survey of the extent and persistence of such discharges, rather than the biological effects (which are more costly to measure).

41. *Additional Comments:* Region 10's responses to the following comments are the same as provided earlier in response to comments on the draft general permits for the Bering and Beaufort Seas. For this reason, only the comments are provided below and the reader is referred to 49 *FR* 23734, June 7, 1984, for the Region's responses.

Comment: Concern was expressed that Region 10 has adopted BAT/BCT permit limits in advance of the promulgation of national effluent limitations guidelines. Permit limits should be set at the BPT level with the provision to reopen the general permit following promulgation of national guidelines.

Comment: Conoco Inc. questioned the need for the limit of "a maximum of five wells at a single site."

Comment: NRDC strongly recommended that the monitoring program of Part II.B.3. be subject to public review before being finalized.

Comment: The general permit should cover the entire planning area. If there are areas of special concern within this area, they can be dealt with when an expected discharger submits a request to be covered under the general permit.

Comment: The general permit should cover all blocks offered for lease rather than all blocks leased. A mechanism is also needed to extend the permit to include future lease sale areas in this permit.

A list of references cited herein is available from Region 10 on request. All referenced documents, and other materials which provide the basis for this permit decision, are contained in the administrative record.

General NPDES Permit, U.S. Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101

[Permit No. AKG287000 (Norton Sound)]

Authorization To Discharge Under the National Pollutant Discharge Elimination System for Oil and Gas Exploration Facilities on the Outer Continental Shelf

In compliance with the provisions of the Federal Water Pollution Control Act, as amended, (33 U.S.C. 1251 et seq.: the "Act"), the following discharges are authorized:

Drilling Mud—(Discharge 001).
Drill Cuttings and Washwater—(Discharge 002).
Deck Drainage—(Discharge 003).
Sanitary Wastes—(Discharge 004).
Domestic Wastes—(Discharge 005).
Desalination Unit Wastes—(Discharge 006).
Blowout Preventer Fluid—(Discharge 007).
Boiler Blowdown—(Discharge 008).
Fire Control System Test Water—(Discharge 009).
Non-Contact Cooling Water—(Discharge 010).
Uncontaminated Ballast Water—(Discharge 011).
Uncontaminated Bilge Water—(Discharge 012).
Excess Cement Slurry—(Discharge 013).
Mud, Cuttings, Cement at Seafloor—(Discharge 014), and
Test Fluids—(Discharge 015),

from oil and gas exploratory facilities in offshore areas (defined in 40 CFR Part 435, Subpart A), to receiving waters named the Norton Sound, in accordance with effluent limitaitons, monitoring and reporitng requirements, and other conditions set forth in Parts I, II, III, IV, and V hereof.

Permittees who do not request and receive coverage under this general permit as described in Part I are not authorized to discharge to the specified waters unless an individual permit has been issued to the permittee by EPA, Region 10.

The authorized discharge sites include all blocks offered for lease from the U.S. Department of the Interior's Minerals Management Service (MMS) in Federal Lease Sale 57 (Norton Sound).

This permit shall be modified or revoked at any time if, on the basis of any new data, the Director determines that this information would have justified the application of different permit conditions at the time of issuance. Permit modification or revocation shall be conducted in accordance with 40 CFR 122.62, 122.63, and 122.64. In addition to any other grounds specified herein, this permit shall be modified or revoked at any time if, on the basis of any new data, the Director determines that continued discharges may cause unreasonable degradation of the marine environment.

Under 40 CFR 122.44(c)(3), if an applicable standard or limitation is promulgated under sections 301(b)(2) (C) and (D), 304(b)(2), and 307(a)(2) and that effluent standard or limitation is more stringent than any effluent limitation in the permit or controls a pollutant not limited in the permit, the permit shall be promptly modified or revoked and reissued to conform to that effluent standard or limitation.

This permit shall become effective on June 4, 1985.

This permit and the authorization to discharge shall expire at midnight on May 29, 1990.

Signed this May 22, 1985, day of May 1985.

Ernesta B. Barnes,

Regional Administrator, EPA Region 10.

Part I. Notification Requirements

A. Requests to be Covered by General Permit

Written request to be covered by this permit shall be provided to EPA at least 60 days prior to initiation of discharges. The 60-day notification requirement may be waived for those permittees who notify EPA during the public comment period on the draft permit. The request shall include the following information:

1. Name and address of the permittee.
2. General location (lease and block numbers) of operations and discharges.
3. Any discharge or operating conditions which will require monitoring (Part II.B.3.) or will require special consideration by EPA.
4. Certification that only authorized muds and additives will be discharged (Part II.B.1.c.).
5. Certification of lessee's responsibility. The permittee shall be the owner and/or operator of the facility. However, the lessee may become the permittee after certifying that the lessee assumes responsibility for compliance with the permit. If the lessee has multiple leases, the lessee may submit a single certification for all of its leases. Submission of this certification does not remove the responsibility of the owner or operator for compliance with the conditions of the permit.

B. Authorization to Discharge.

The permittee's discharges are not authorized until written notification is received from EPA that operations at the discharge site have been assigned a permit number under this general permit. A permit number cannot be assigned until the following information is received. This information shall be provided to EPA in the request for coverage, if possible, but in no case less than 30 days prior to commencement of discharges.

1. Location of discharge site, including lease block number and approximate coordinates.
2. Range of water depths in lease block.
3. Initial date and expected duration of operations.
4. Request for authorization to discharge muds or additivies not listed in Tables 1 and 2 (Parts II.B.1.e. and f.).

C. Commencement of Disharges

The permittee shall notify EPA Region 10 during the 7 day period prior to initiation of discharges from a new or existing facility at an authorized discharge site. The notification shall include the exact coordinates and water depth at the discharge site, and may be oral or in writing. If notification is given orally,

written confirmation must follow within 7 days.

D. 3Sites Requiring Environemental Surveys

All operators that locate within the areas covered by this general permit shall submit to EPA copies of any exploration plans, biological surveys, and/or environmental reports required by the Regional Supervisor, Field Operations (RSFO) of the Minerals Management Service for the identification and/or protection of biological populations or habitats. If the final exploration plans and environmental reports are identical to review copies received by Region 10, permittees need not submit them under this permit provision. Permittees shall notify Region 10 in writing when no exploration plan or environmental report will be sent.

E. Termination of Discharges

The permittee shall notify EPA within 30 days following cessation of discharges at the discharge site.

F. Submissions of Requests to be Covered and Other Reports

Reports and notifications required herein shall be submitted to the folowing addresses:

All requests for coverage and additive authorization—

Director, Water Division, U.S. Environmental Protection Agency, Region 10, Attn: Water Permits and Compliance Branch, M/S 430, 1200 Sixth Avenue, Seattle, Washington 98101, (206) 442-8293

All monitoring reports and notifications of non-compliance—

Director, Water Division, U.S. Environmental Protection Agency, Region 10, Attn: Water Permits and Compliance Branch, M/S 513, 1200 Sixth Avenue, Seattle, Washington 98101, (206) 442-1213

G. Coverage Under Individual Permits.

1. The Director may require any permittee discharging under the authority of this permit to apply for and obtain an individual NPDES permit when any one of the following conditions exist:

a. The discharge(s) is (are) a significant contributor of pollution.

b. The permittee is not in compliance with the conditions of this general permit.

c. A change has occurred in the availability of the demonstrated technology or practices for the control or abatement of pollutants applicable to the point source.

d. Effluent limitation guidelines are promulgated for point sources covered by this permit.

e. A Water Quality Management Plan containing requirements applicable to such point source is approved.

f. The point sources covered by this permit no longer:

(1) Involve the same or substantially similar types of operations,

(2) Discharge the same types of wastes,

(3) Require the same effluent limitations or operating conditions, or

(4) Require the same or similar monitoring.

g. In the opinion of the Director, the discharges are more appropriately controlled under an individual permit than under a general NPDES permit.

2. The Director may require any permittee authorized by this permit to apply for an individual NPDES permit only if the permittee has been notified in writing that an individual permit application is required.

3. Any permittee authorized by this permit may request to be excluded from the coverage of this general permit by applying for an individual permit. The owner or operator shall submit an application together with the reasons supporting the request to the Director no later than 90 days after the effective date of the permit.

4. When an individual NPDES permit is issued to a permittee otherwise subject to this general permit, the applicability of the general permit to that owner or operator is automatically terminated on the effective date of the individual permit.

Part II. Effluent Limitations and Monitoring Requirements

A. Definitions

1. "AAS" means atomic absorption spectrophotometry.

2. "Authorized additive" means any drilling mud additive listed in Table 2 or authorized for discharge under Parts II.B.1.d., e. or f.

3. "Ballast water" means seawater added or removed to maintain the proper ballast floater level and ship draft.

4. "bbl/hr" means barrels (one barrel equals 42 gallons) per hour.

5. "Bilge water" means water which collects in the lower internal parts of the drilling vessel hull.

6. "Biocide" means any chemical agent used for controlling the growth of nuisance organisms; examples are fungicides, algicides, and bactericides.

7. "Blowout preventer fluid" means fluid used to actuate hydraulic equirpment on the blowout preventer.

8. "Boiler blowdown" means the discharge of water and contained substances drained from boiler drums.

9. "Bulk discharge" means the discharge of more than 100 barrels in a one hour period.

10. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility (see Part IV.G.).

11. "Cd" means cadium.

12. "Cooling water" means once-through non-contact cooling water.

13. "Cuttings"—see "Drill cuttings."

14. "Deck drainage" means all waste resulting from platform washings, deck washings, spillings, rainwater, and runoff from curbs, gutters, and drains including drip pans and wash areas.

15. "Desalination unit wastes" means wastewater associated with the process of creating freshwater from seawater.

16. "Diesel oil" means the class of distillate fuel oil, typically used in conventional oil-based drilling fluids, which contains a number of toxic pollutants. For the purpose of any particular operation under this permit, "diesel oil" shall refer to the fuel oil present on the drilling rig.

17. "Domestic wastes" means wastes from showers, sinks, galleys, and laundries.

18. "Drill cuttings" means particles generated by drilling into subsurface geological formations and carried to the surface with the drilling fluid.

19. "Excess cement slurry" means the excess cement and wastes from equipment washdown after a cementing operation.

20. "Exploratory" operations are limited to those operations involving drilling to determine the nature of potential hydrocarbon reserves and does not include drilling of wells once a hydrocarbon reserve has been defined.

21. "Fire control system test water" means the water released during the training of personnel in fire protection and the testing and maintenance of fire protection equipment.

22. "GC" means gas chromatography.

23. "Generic drilling muds" or "generic muds" means the eight primary mud types which have been evaluated and authorized by EPA. These mud types have been authorized for discharge with limitations on composition given in Table 1. A list of authorized specialty additives is given in Table 2. Any type of mud (excluding Mud No. 1) listed in Table 1 which contains one or more components or additives not listed in Table 2, shall also be considered a generic mud if the standard drilling fluids toxicity test for the drilling mud with the additive demonstrates that there has not been a substantial decrease in the LC_{50} value of the listed generic mud. See Part II.B.1.

24. A "grab" sample is a single sample or measurement taken at a specific time or over as short a period of time as is feasible.

25. "Hg" means mercury.

26. "lb/bbl" means pounds per barrel.

27. "Maximum" as applied to effluent limitations and standards for produced water and drilling fluids means the maximum concentration allowed as measured in any single sample of the discharged waste stream.

28. "MGD" means million gallons per day.

29. "mg/kg" means milligrams per kilogram.

30. "Mineral oils" means a class of low volatility petroleum product, generally of lower aromatic hydrocarbon content and lower toxicity than diesel oil.

31. "mg/l" means milligrams per liter.

32. "Monitoring month" shall mean the period consisting of the calendar weeks which end in a given calendar month.

33. "Monthly average" for discharges means the average flow rate per hour or day during the period of each calendar month.

34. "Monthly maximum" for flow rate means the peak flow rate which occurs during the period of each calendar month.

35. "Monthly maximum" for oil and grease concentration means the maximum value obtained for samples taken during the period of each calendar month.

36. "Muds, cuttings, cement at sea floor" means the materials discharged at the surface of the ocean floor in the early phases of drilling operations, before the well casing is set, and during well abandonment and plugging.

37. "NAA" means neutron activation analysis.

38. "No discharge of free oil" means that waste streams that would cause a film or sheen upon or a discoloration of the surface of the receiving water or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines may not be discharged.

39. "No discharge of diesel oil" in drilling mud means a determination that diesel oil is not present based on a comparison of the gas chromatogram from an extract of the drilling mud and from diesel oil obtained from the drilling rig or platform. GC/MS may also be used.

40. "Production" operations are those operations involving active recovery of hydrocarbons from producing formations.

41. "Sanitary wastes" means human body waste discharged from toilets and urinals.

42. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

43. "Spent drilling fluid system discharge" means the bulk discharge of an entire drilling fluid system prior to a complete changeover to another drilling fluid system, or at the completion of the drilling of a well.

44. "Stable ice" means ice that is stable enough to support discharged muds and cuttings.

45. "Standard Drilling Fluids Toxicity Test" means a bioassay conducted and reported in accordance with the following standard bioassay methodology: "Proposed Methodology: Drilling Fluids Toxicity Test for the Offshore Subcategory, Oil and Gas Extraction Industry" (Petrazzuolo, 1983) or other methods approved in advance by EPA Region 10.

46. "Static Sheen Test" means those procedures which are described in the draft "Proposed Methodology: Laboratory Sheen Tests for the Offshore Subcategory, Oil and Gas Extraction Industry," prepared by Technical Resources, Inc., April 10, 1983, and EPA Region 10's "Interim Guidance for the Static (Laboratory) Sheen Test," January 10, 1984.

47. "Test fluid" means the discharge which would occur should hydrocarbons be located during exploratory drilling and tested for formation pressure and content. This would consist of fluids sent downhole during testing along with water from the formation.

48. "Unstable or broken ice conditions" means greater than 25% ice coverage within a one (1) mile radius of the discharge site after spring breakup or after the start of slush ice formation in the fall.

49. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation (see Part IV.H.).

50. "Water depth" means the depth of the water between the surface and the seafloor as measured at mean lower low water.

51. "XFA" means x-ray fluorescence analysis.

52. "96-HR LC50" means the concentration of a test material that is lethal to 50 percent of the test organisms in a bioasay after 96 hours of constant exposure.

B. *Drilling Muds and Cuttings and Washwater Discharges Discharges 001 and 002).*

1. *General Requirements.* Such discharge's shall be limited and monitored by the permittee in accordance with Parts II.B.2., II.B.3., II.F., III., and the following requirements. The requirements apply to each of the discharges except where otherwise noted.

Effluent characteristic	Discharge limitation	Monitoring requirements		
		Measurement frequency	Sample type/method	Reported value(s)
Drilling mud constituents.	Generic muds and authorized additives only.	[1]	[1]	[1]
Max. flow rate [2] 5-20 m depth >20-40 m depth.	500 bbl/hr, 750 bbl/hr	Continuous during discharge.	Estimate	Monthly maximum (bbl/hr).
Total volume (bbl)	[3]	Daily	do	Monthly total.
Free oil	No free oil	Daily, and before bulk discharges.	Grab/Static Sheen Test	Number of days sheen observed.
Oil content of cuttings	10 percent by weight	[4]	Grab [5]	Results of each analysis.
Diesel oil content	No discharge of diesel oil.	[6]	Grab/GC	Presence or absence.
Hg and Cd content of barite.	1 mg/kg Hg, 3 mg/kg Cd, dry wt.	Once per well	AAS	Concentrations (mg/kg dry wt).
Drilling mud metals		do	See Part II.B.1.i.	Concentrations (mg/kg dry wt).
Toxicty of mud		do	See Part II.B.1.j.	96-hr LC50.

[1] See Parts II.B.1.d., e., f., g. and i.
[2] Maximum flow rate of total muds and cuttings into waters of given depths and under open water conditions (See Part II.B.2 for additional seasonal limitations).
[3] Exploratory drilling is limited to no more than five wells at a single drilling site. If a step-out (kick-off) well is drilled from a previously drilled well hole, the step-out (kick-off) well is counted as a new well.
[4] Analysis is required: (a) Weekly during weeks when oil-based drilling fluids are used, and (b) immediately on any sample that has violated the Static Sheen Test.
[5] Analysis for oil and grease by soxhlet extraction (40 CFR 136) or for oil by retort distillation (American Petroleum Institute, Recommended Practice 13B, 1980).
[6] Analysis is required: (a) On a sample collected from the end-of-well drilling mud system used at the greatest well depth, and (b) whenever the Static Sheen Test is violated and a discharge has occurred.

a. *Prohibition on the discharge of all oil-based muds or diesel oil and associated cuttings.*—The discharge of oil-based drilling muds (containing oil as the continuous phase with water as the dispersed phase) is prohibted. The discharge of water-based drilling muds which have contained diesel oil or of cuttings associated with any muds which have contained diesel is also prohibited. Compliance with the limitation on diesel oil shall be demonstrated by analysis of drilling mud collected from the end-of-well mud system. In all cases, the determination of the presence or absence of diesel oil shall be based on a comparison of the GC spectra of the sample and of diesel oil in storage at the facility. The method of GC analysis shall be that described in "Analysis of Diesel Oil in Drilling Fluids and Drill Cuttings" (CENTEC, 1985) available from EPA, Region 10. Gas chromotography/mass spectrometry (GC/MS) may be used if an instance should arise where the operator and EPA determine that greater resolution of the drilling mud "fingerprint" is needed for a particular drilling mud sample.

The end-of-well analysis for diesel oil shall be done in conjunction with the analyses required in Part II.B.1.i. The results and raw data, including the spectra from the GC analysis shall be provided to the Director by written report (a) within 30 days of a positive result with the Static Sheen Test, or (b) for the end-of-well analysis, with the monthly Discharge Monitoring Report.

b. *No discharge of free oil.*—There shall be no discharge of free oil as a result of the discharge of drill cuttings and/or drilling muds. The permittee shall perform the Static (laboratory) Sheen Test on separate samples of drilling muds and cuttings on each day of discharge and prior to bulk discharges. The test shall be conducted in accordance with "Proposed Methodology: Laboratory Sheen Tests for the Offshore Subcategory, Oil and Gas Extraction Industry" (Petrazzuolo, 1983) and EPA Region 10's "Interim Guidance for the Static (Laboratory) Sheen Test." The discharge of drilling muds or cuttings which fail the Static Sheen Test is prohibited.

Whenever muds or cuttings fail the Static Sheen Test and a discharge has occurred, the permittee is required to immediately collect an undiluted sample of the material which failed the test. The permittee shall analyze this sample by gas chromatography (GC) to determine the presence or absence of diesel oil. The results and raw data, including the spectra, from the GC analysis shall be provided to the Director by written report within 30 days of a positive result with the Static Sheen Test.

c. *Certification of discharge of authorized muds and additives.*—The permittee is required to certify at the time coverage is requested under the general permit that only

generic muds and authorized additives (Part II.B.1.d.) or muds and additives authorized in accordance with Parts II.B.1.e. and f. will be discharged.

d. *Generic drilling muds and authorized additives.*—1) Only generic drilling muds and authorized additives shall be discharged. The eight generic mud types which have been authorized for discharge are given in Table 1, with specified limitations on composition. A list of additional authorized mud components (specialty additives) are given in Table 2. This table may be revised during the term of this permit based on new information. Unless otherwise stated, the latest version of this table, published in the **Federal Register** as part of a Region 10 general NPDES permit for coastal or offshore oil and gas drilling, shall be the version applicable to discharges under this permit after the date of publication.

(2) Any type of mud listed in Table 1 which contains one or more components or additives NOT listed in Tables 1 and 2 shall also be considered a generic mud IF the permittee provides the results of the Standard Drilling Fluids Toxicity Test, or other procedures approved in advance by EPA Region 10, which demonstrate that it passes the screening criteria listed below.

(a) For Generic Mud No. 1 (Table 1) there shall be no decrease in the LC_{50} (increase in toxicity) under this provision.

(b) For Generic Muds Nos. 2 through 8 (Table 1) the addition of additives or other components shall not cause an increase in toxicity greater than seven (7) as calculated below. The increase in toxicity is defined as the difference between the inverses of the LC_{50} values multiplied by 10^6, i.e. by the following formula:

$$\text{Increase in toxicity} = (1/LC_{ma} - 1/LC_m)\ 10^6$$

Where LC_m equals the LC_{50} (ppm volume to volume) of the listed generic mud (as determined either by EPA or the permittee) and LC_{ma} equals the measured LC_{50} of that mud with the added components or additives. These LC_{50} values refer to the undiluted mud; LC_{50} values obtained from the suspended particulate phase must be corrected for dilution.

This equation allows a 10% decrease in the LC_{50} of the second most toxic generic mud and a correspondingly greater percentage decrease for those muds which are less toxic. However, the same absolute increase in toxicity applies to all generic muds except Mud No. 1 (see (a) above).

(c) Biocides may only be discharged if prior authorization is obtained under Part II.B.1.e.

The discharge of generic muds does not require prior approval, but is sugject to the following reporting requirements, if the generic mud is not listed in Table 1 or has not previously been approved. Prior to discharge or no later than 60 days after the discharge, the permittee shall submit a report containing the following information: A list and description of all drilling mud constituents (including chemical composition), concentration of each constituent (lbs/bbl and % by volume), the estimated total volume of discharge, and bioassay test results conducted in accordance with the standard drilling fluids toxicity test (or other procedures approved in advance by EPA, Region 10). Additional information may be required at the discretion of Region 10.

e. *Authorization to discharge drilling muds and additives not listed in Tables 1 and 2.*—The discharge of drilling muds containing any additive (or component) not allowed under Part II.B.1.d. shall require authorization by Region 10 *prior* to discharge.

The permittee shall submit the information outlined below with the request for coverage (Part I.B.). In the authorization process Region 10 will evaluate whether the use of the requested additives or components will unacceptably increase the toxicity of the drilling mud. The permittee shall supply the following information to Region 10:

(1) Approximate date and duration of proposed discharge.

(2) Bioassay testing and reporting of results in accordance with the Standard Drilling Fluids Toxicity Test or other procedures approved in advance by Region 10; additives may be tested with this methodology in a standard reference mud, a generic mud, or in the proposed drilling mud system. The bioassay report shall specify the concentration of each constituent in the tested drilling fluid.

(3) Chemical characterization of the additive; estimate of total amount required for any particular well, requested application rate (lb/bbl and % by volume) in the drilling mud, total volume of the drilling mud in which the additive will be dispersed. For the particular well under consideration, a description of drilling mud type and list of other additives, inlcuding concentrations (lb/bbl and % by volume) likely to be present in the drilling mud.

Additives may be authorized on an interim basis, at the discretion of EPA, Region 10, if preliminary bioassay data and other information are submitted and if the Water Division Director determines that additional information is required. The requested additional information may include bioassay data on a used drilling mud sample containing the requested additive. Interim authorization of some mineral oil spotting agents may include a requirement that a pill containing the mineral oil spot be removed prior to discharge of the mud system. This information shall be submitted by the date specified in the letter granting interim authorization.

f. *Authorization to discharge mineral oil lubricity or spotting agents.*—Mineral oil lubricity or spotting agents will be authorized as additives in discharged drilling muds (subject to other limitations; e.g., on free oil) in accordance with Part II.B.1.e., above, if (1) the Standard Drilling Fluids Toxicity Test demonstrates that the selected mineral oil would not cause the drilling mud to be more toxic than the most toxic generic mud, or (2) the permittee adequately demonstrates that the use of mineral oils which meet this limitation is not possible and that the requested mineral oil is the least toxic available.

g. *Mercury and cadmium content of barite.*—The permittee shall not discharge a drilling mud to which barite was added if such barite contained mercury in excess of 1 mg/kg or cadmium in excess of 3 mg/kg (dry weight basis). The permittee shall analyze a representative sample to stock barite once prior to drilling each well and submit the results for total mercury and total cadmium in the Dischrge Monitoring Report upon well completion. Analyses for total concentrations shall be conducted by AAS and results expressed as mg/kg (dry weight) of barite.

If the permittee is unable to comply with this provision due to the lack of availability of barite which meets the above limitations, the Water Division Director may on a case by case basis allow the discharge of barite which exceeds these limitations. Prior to discharge the permittee shall demonstrate to the satisfaction of the Water Division Director that barite which meets the limitations is unavailable and shall provide the results of analyses of the substitute barite.

h. *End-of-well chemical inventory.*—For each mud system discharged the permittee shall maintain a precise chemical inventory of all constituents added downhole, including all drilling mud additives used to meet specific drilling requirements. The inventory shall include the following for *each* mud type (1) The total pounds or barrels, as appropriate, of each constituent added, (2) the total volume of mud in the whole system, (3) the volume of mud discharged, and (4) the maximum concentration of each constituent in the discharged mud. Furthermore, the mud system shall be identified as to its generic mud type from the list in Table 1 if that is the basis of its authorization. The inventory shall be submitted within 45 days following well completion.

i. *End-of-well chemical analysis.*—The permittee shall analyze one drilling mud sample from the end-of-well mud system after the mud is used at its greatest well depth, and prior to any predilution. The drilling mud sample shall be of sufficient size to allow for both chemical and bioassay testing as described here and in Part II.B.1.j. below.

The chemical analysis of the drilling mud shall include the following metals: barium, cadmuim, chromium, mercury, zinc, and lead. The results shall be reported in "mg/kg of whole mud (dry weight)" and the moisture content (% by weight) of the original drilling mud sample shall be reported. The total concentration shall be reported for each metal and shall be obtained by the methods given in 40 CFR 136 with the exception of total barium. NAA or XFA shall be used for total barium. Flame of flameless AAS shall be used for mercury, cadmium, zinc and lead. Either NAA or AAS may be used for chromium.

The results of the chemical analyses shall be submitted with the end-of-well chemical inventory (Part II.B.1.h.) and shall identify the corresponding mud system from the end-of-well inventory. This requirement may be discontinued if EPA determines at some point that additional data collection is unnecessary.

j. *Bioassay test.*—The permittee shall complete one bioassay test per well. The sample shall be a representative subsample of that collected for chemical analysis in Part II.B.1i. above. The testing and reporting of results shall be in accordance with the Standard Drilling Fluids Toxicity Test or other procedures approved in advance by

Region 10. The results of the bioassay testing shall be reported in association with the end-of-well chemical inventory (Part II.B.1.h) and analyses (Part II.B.1.i) for the end-of-well mud system and shall be submitted with the monthly Discharge Monitoring Report (DMR).

The bioassay requirement will be re-evaluated every two years. If EPA determines that sufficient information has been gathered, the requirement may be discontinued.

2. *Seasonal and Depth-Related Requirements.* a. During unstable or broken ice conditions, the following conditions apply:

(1) Drilling effluents shall be placed on-ice using routine methods or nonroutine methods of discharge whenever practicable.

(2) Discharge to the water column is prohibited, unless it is not practicable to: (i) Store drilling effluents onsite for subsequent discharge on stable ice or during open water, (ii) dispose of the drilling effluents on and, (iii) create an on-ice disposal site by pumping and artificial thickening of the sea ice, and/or (iv) handle the drilling effluent in another manner that prevents below-ice discharge.

(3) If it is not practicable to meet the conditions in (2) above, discharge may be allowed under the following conditions in addition to those in Part II.B.1.

(a) Permittee notifies EPA that discharge will occur. Notification, in writing, shall be received by the Director at least thirty (30) days prior to the discharge. The notification will include:

(i) A comprehensive evaluation of disposal alternatives for drilling muds and cuttings.

(ii) A demonstration that where discharges are to areas shallower than 10 m, these areas are not overwintering areas for significant fish or shellfish populations.

The Director may prohibit discharges if an acceptable alternatives analysis has not been completed, or if a clear demonstration can not be made that significant overwintering fish or shellfish populations are absent from the discharge area. Discharge is not authorized until the permittee receives notification from the Director.

(b) The discharge shall be released no deeper than 2 meters below the surffice of the receiving water.

(c) Environmental monitoring is required as specified in part II.B.3.

b. During stable ice conditions the following conditions apply:

(1) Discharges shall be to above-ice locations and shall avoid areas of sea ice cracking or major stress fracturing.

(2) Flow rate restrictions do not apply.

3. *Environmental Monitoring Requirements.* a. A monitoring program shall be conducted by the permittee to determine the transport, fate, and, possibly, the biological effects of drilling muds and cuttings discharged during broken or unstable ice conditions. The monitoring program will apply to waters less than 20 m deep and will be designed by EPA in consultation with the Alaska Department of Environmental Conservation (ADEC) and the permittee. The program shall be conducted at one facility initially, with monitoring of subsequent operations required in cases where special environmental concerns exist (e.g., discharges which will occur in a net depositional area or an area with a vulnerable biological community).

Where a monitoring program is required, monitoring data shall be obtained at the following times:

(1) For baseline conditions, at least 30 days before drilling operations commence;

(2) During well drilling operations and discharges (either single or multiple well operations);

(3) For a period of one year after drilling discharges cease: and

(4) Up to twice per year therafter until such time as no statistically significant differences in sediment concentrations between pre- and post-discharges are measurable, as determined by EPA, Region 10. This requirement shall continue for a maximum of 5 years.

The data shall include but not be limited to, the following:

(1) Wave heights and depth profiles of current speeds and directions:

(2) Temperature, salinity, and density profiles;

(3) Sediment water content (percent by weight), particle size distribution, and concentrations of heavy metals and hydrocarbons;

(4) Visual (including photographic) observations.

(b) A monitoring program shall be conducted to determine the fate, composition, and persistence of oil-contaminated cuttings, if cuttings from oil-based drilling muds are discharged. This monitoring requirement may be waived on a case-by-case basis at the discretion of EPA, Region 10, if a significant portion of the well is not drilled with oil-based muds, thereby resulting in only a minor discharged volume of oil-contaminated cuttings. It may also be waived if sufficient information is gathered to detemine that such discharges from subsequent wells will not cause unreasonable degradation of the marine environment.

The details of the program will be designed by EPA in consultation with ADEC and the permittee, based on the circumstances of the proposed discharge. The parameters, to be measured at the time of discharge and periodically thereafter, shall include but not be limited to the following:

(1) The distribution of the contaminated cuttings, including the area covered and the depths of the deposits;

(2) The BOD and oil content of the cuttings; and

(3) The toxicity of the cuttings.

C. Deck Drainage, Sanitary Wastes, and Domestic Wastes (Discharges 003–005).

These discharges shall be limited and monitored by the permittee in accordance with Parts II.F., III. and the following requirements.

Outfall/effluent characteristic	Discharge limitation	Monitoring Requirements		
		Measurement frequency	Sample type/method	Reported value(s)
All discharges (003–005) flow rate.		Monthly	Estimate	Monthly average.
Deck drainage (003) [1] free oil.	No visible sheen	Daily, during discharge	Visual/sheen on receiving water [2].	Number of days sheen observed.
Sanitary Wastes (004) [3]				
Solids	No floating solids	Daily	Observation [4]	Number of days solids observed.
Residual chlorine [5]	As close as possible to, but no less than, 1.0 mg/l.	Monthly	Grab [6]	Concentration (mg/l).

[1] Area drains for either washdown water or rainfall that may be contaminated with oil and grease shall be separated from those area drains that would not be contaminated. The contaminated deck drainage shall be processed through an oil-water separator prior to discharge.

[2] If discharge occurs during broken, unstable, or stable ice conditions, the sample type/method shall be "Grab/Static Sheen Test."

[3] Any facility using a marine sanitation device (MSD) that complies with pollution control standards and regulations under § 312 of the Act shall be deemed to be in compliance with the limitations for this outfall until such time as the device is replaced or is found not to comply with such standards and regulations. The MSD shall be tested yearly for proper operation and test results maintained at the facility. In cases where sanitary and domestic wastes are mixed prior to discharge, and sampling of the sanitary waste component stream is infeasible, the discharge may be sampled after mixing. In such cases, the discharge limitations for sanitary wastes shall apply to the mixed waste stream.

[4] Monitoring, by visual observation of the surface of the receiving water in the vicinity of the outfall(s), shall be done during daylight at a time of maximum estimated discharge.

[5] This limitation applies only to facilities continously manned by ten or more persons.

[6] Residual chlorine may be monitored according to test procedures approved under 40 CFR 136 or using a Hach Test Kit capable of measuring free chlorine in the range 0–3.5 mg/l with a sensitivity of 0.1 mg/l or better.

D. Miscellaneous Discharges (Discharges 006–014).

1. *General Requirements.* The following limitations and monitoring requirements in addition to those in Parts II.F. and III. apply to these discharges.

Outfall/effluent characteristic	Monitoring Requirements			
	Discharge limitation	Measurement frequency	Sample type/method	Reported value(s)
All discharges (006–014):				
Flow rate (MGD)		Monthly	Estimate	Monthly average.
Free oil	No free oil	Once/discharge or once/day as appropriate.	Visual/sheen on receiving water.	Number of days sheen observed.

a. Bilge water (012) shall be processed through an oil-water separator prior to discharge. If discharge of bilge water occurs during broken, unstable, or stable ice conditions, the sample type/method used to determine compliance with the no free oil limitation shall be "Grab/Static Sheen Test."

b. The permittee shall maintain an inventory of the quantities and rates of chemicals (other than water or seawater) added to cooling water (010) and desalination (006) systems. The inventory shall be submitted with the monthly Discharge Monitoring Report.

E. *Test Fluids (Discharge 015).*

1. *General Requirements.* This discharge shall be limited and monitored by the permittee in accordance with Parts II.F., III. and the following requirements. Test fluids must be processed through an oil-water separator prior to discharge. Samples when required shall be collected from the effluent of the oil-water separator.

Outfall/effluent characteristic	Monitoring requirements			
	Discharge limitation	Measurement frequency	Sample type/method	Reported value(s)
Volume (bbl)		Once/discharge	Estimate	Total volume/test.[1]
Free oil	No free oil	Once/discharge	Visual/sheen on receiving water.	Number of times sheen observed.
Oil and grease (mg/l)	72 mg/l daily max., 48 mg/l monthly avg.	Once/discharge	Grab	Monthly maximum and average.
pH	6.5–8.5 [2]	Once/discharge	Grab	pH.

[1] Volume will be reported as the number of barrels of fluids sent downhole during testing and the number of barrels discharged. The chemical composition of the fluids sent downhole will also be reported.
[2] Any spent acidic test fluids shall be neutralized before discharge such that the pH at the point of discharge shall not be less than 6.5 or greater than 8.5.

a. The discharge of oil-based test fluids is prohibited. All other test fluids shall be processed through an oil-water separator.

F. *Other Discharge Limitations.*

1. *Floating Solids, Visible Foam, or Oily Wastes.* There shall be no discharge of floating solids or visible foam in other than trace amounts, nor of oily wastes which produce a sheen on the surface of the receiving water.

2. *Applicable Marine Water Quality Criteria.* There shall be no discharge of any constituent in concentrations which exceed applicable marine water quality criteria after allowance for initial mixing. Initial mixing in federal waters is defined at 40 CFR 227.29 and federal marine water quality criteria at 45 FR 79318, 23 November 1980.

3. *Highly Toxic Compounds and Materials.* There shall be no discharge of diesel oil, halogenated phenol compounds, trisodium nitrilotriacetic acid, sodium chromate or sodium dichromate.

4. *Surfactants, Dispersants, and Detergents.* The discharge of surfactants, dispersants, and detergents shall be minimized except as necessary to comply with the safety requirements of the Occupational Health and Safety Administration and the Minerals Management Service.

Part III. Monitoring, Recording and Reporting Requirements

A. *Representative Sampling.* Samples taken in compliance with the monitoring requirements established under Part II shall be collected from the effluent stream prior to discharge into the receiving waters. Samples and measurements shall be representative of the volume and nature of the monitored discharge.

B. *Monitoring Procedures.* See 40 CFR 122.41(j)(4).

C. *Penalties for Tampering.* See 40 CFR 122.41(j)(5).

D. *Reporting of Monitoring Results.* The permittee shall be responsible for submitting monitoring results.

1. The effluent monitoring requirements in this permit shall take effect upon commencement of discharge. Monitoring results shall be summarized each month on a Discharge Monitoring Report (DMR) form (EPA No. 3320–1). The reports shall be submitted monthly and are to be postmarked by the 10th day of the following month. Legible copies of these, and all other reports, shall be signed and certified in the accordance with the requirements of *Part V.H. Signatory Requirements*, and submitted to EPA at the address specified in Part I.F.

2. The permittee shall include on each DMR a listing which days had (1) unstable or broken ice and (2) stable ice around the discharge site during the month covered by that DMR.

3. If any discharge has more than one discharge point, all permit limitations apply to each discharge point. The discharge points shall be designated as 001A, 001B, 001C, etc. Flow limitations apply to the total discharge of each category of wastes; i.e., to the sum or 001A, 001B, 001C, etc., except where otherwise noted.

4. If any category of waste (outfall) is not applicable due to the type of operation or facility, no reporting is required for that particular outfall. Only DMRs representative of the activities occurring need to be submitted. Information indicating the type of operation should be provided with DMRs.

E. *Compliance Schedules.* See 40 CFR 122.41(l)(5).

F. *Additional Monitoring by the Permittee.* See 40 CFR 122.41(l)(4)(ii). Increased monitoring frequency shall also be indicated.

G. *Records Contents.* See 40 CFR 122.41(j)(3).

H. *Retention of Records.* See 40 CFR 122.41(j)(2). Data collected onsite, copies of Discharge Monitoring Reports, and a copy of this NPDES permit must be maintained onsite during the duration of activity at the permitted location.

I. *Twenty-four Hour Notice of Noncompliance Reporting.*

1. The following occurrences of noncompliance shall be reported by telephone within 24 hours from the time the permittee becomes aware of the circumstances:

a. Any noncompliance which may endanger health or the environment;

b. Any unanticipated bypass which exceeds any effluent limitation in the permit (See *Part IV.G. Bypass of Treatment Facilities.*);

c. Any upset which exceeds any effluent limitation in the permit (See *Part IV.H. Upset Conditions.*);

d. Violation of a maximum daily discharge limitation for any of the pollutants listed in the permit as requiring violations to be reported within 24 hours.

2. A written submission shall also be provided within five days of the time that the permittee becomes aware of the circumstances. See 40 CFR 122.41(l)(6)(i).

3. The Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the Water Compliance Section in Seattle, Washington, by phone, (206) 442–1213.

4. Reports shall be submitted as specified in *Part III.D. Reporting of Monitoring Results.*

J. *Other Noncompliance Reporting.* Instances of noncompliance not required to be reported within 24 hours shall be reported at the time that monitoring reports for Part III.D. are submitted. The reports shall contain the information listed in Part III.I.2.

K. *Inspection and Entry.* See 40 CFR 122.41(i).

Part IV. Compliance Responsibilities

A. *Duty to Comply.* The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action, termination of coverage under the general permit, or for requiring a permittee to apply for and obtain an individual NPDES permit.

B. *Penalties for Violations of Permit Conditions.* See 40 CFR 122.41(a)(2), as revised by 50 *FR* 6940, February 19, 1985. Except as provided in permit conditions in *Part IV.G. Bypass of Treatment Facilities* and *Part IV.H. Upset Conditions*, nothing in this permit shall be construed to relieve the permittee of the civil or criminal penalties for noncompliance.

C. *Need to Halt or Reduce Activity not a Defense.* See 40 CFR 122.41(c).

D. *Duty to Mitigate.* See 40 CFR 122.41(d).

E. *Proper Operation and Maintenance.* See 40 CFR 122.41(3), as revised September 26, 1984, 49 *FR* 38049.

F. *Removed Substances.* Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters.

G. *Bypass of Treatment Facilities.* See 40 CFR 122.41(m), as revised by 49 *FR* 38046, September 26, 1984.

H. *Upset Conditions.* See 40 CFR 122.41(n), as revised by 49 *FR* 38046, September 26, 1984.

I. *Toxic Pollutants.* The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

J. *Samples of Wastes.* If requested, the permittee shall provide EPA with a sample of any waste in a manner specified by the Agency.

Part V. General Requirements

A. *Changes in Discharge of Toxic Substances.* See 40 CFR 122.41(a)(1)(i), (ii), and (iv); 40 CFR 122.41(a)(2) (i), (ii), and (iv); as revised by 49 *FR* 38049, September 26, 1984.

B. *Planned Changes.* See 40 CFR 122.41(l)(1) (i) and (ii), as revised by 49 *FR* 38049, September 26, 1984.

C. *Anticipated Noncompliance.* See 40 CFR 122.41(l)(2).

D. *Permit Actions.* See 40 CFR 122.41(f).

E. *Duty to Reapply.* See 40 CFR 122.41(b). The application should be submitted at least 180 days before the expiration date of this permit.

F. *Duty to Provide Information.* See 40 CFR 122.41(h).

G. *Other Information.* See 40 CFR 122.41(l)(8), as revised by 40 *FR* 6940, February 19, 1985.

H. *Signatory Requirements.* See 40 CFR 122.22, as revised by 49 *FR* 38047, September 26, 1984.

I. *Penalties for Falsification of Reports.* See 40 CFR 122.41(k)(2).

J. *Availability of Reports.* Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of ADEC and EPA. As required by the Act, permit applications, permits and effluent data shall not be considered confidential.

K. *Oil and Hazardous Substance Liability.* Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under section 311 of the Act.

L. *Property Rights.* The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state or local laws or regulations.

M. *State Laws.* Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by section 510 of the Act.

N. *Severability.* The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

O. *Transfers.* See 40 CFR 122.61(b).

Table 1.—Authorized Drilling Mud Types

Components	Maximum allowable concentration (lb/bbl)
1. Seawater/freshwater/potassium/polymer mud:	
KCl	50
Starch	12
Cellulose polymer	5
Xanthan gum polymer	2
Drilled solids	100
Caustic	3
Barite	450
Seawater or freshwater	(1)
2. Seawater/lignosulfonate mud:	
Attapulgite or bentonite	50
Lignosulfonate, chrome or ferrochrome	15
Lignite, untreated or chrome-treated	10
Caustic	5
Barite	450
Drilled solids	100
Soda ash/sodium bicarbonate	2
Cellulose ploymer	5
Seawater	(1)
3. Lime mud:	
Lime	20
Bentonite	50
Lignosulfonate, chrome or ferrochrome	15
Lignite, untreated or chrome-treated	10
Caustic	5
Barite	180
Drilled solids	100
Soda ash/sodium bicarbonate	2
Seawater or freshwater	(1)
4. Nondispersed mud:	
Bentonite	15
Acrylic polymer	2
Barite	180
Drilled solids	70
Seawater or freshwater	(1)
5. Spud Mud:	
Lime	1
Attapulgite or bentonite	50
Caustic	2
Barite	50
Soda ash/sodium bicarbonate	2
Seawater	(1)
6. Seawater/freshwater gel mud:	
Lime	2
Attapulgite or bentonite	50
Caustic	3
Barite	50
Drilled solids	100
Soda ash/sodium bicarbonate	2
Cellulose polymer	2
Seawater or freshwater	(1)
7. Lightly treated Lignosulfonate freshwater/seawater mud:	
Lime	2
Bentonite	50
Lignosulfonate, chrome or ferrochrome	6
Lignite, untreated or chrome-treated	4
Caustic	3
Barite	180
Drilled solids	100
Soda ash/sodium bicarbonate	2
Cellulose polymer	2
Seawater and freshwater in 1:1 ratio	(1)
8. Lignosulfonate freshwater mud:	
Lime	2
Bentonite	50
Lignosulfonate, chrome or ferrochrome	15
Lignite, untreated or chrome-treated	10
Caustic	5
Barite	450
Drilled solids	100
Soda ash/sodium bicarbonate	2
Cellulose polymer	2
Freshwater	(1)

[1] As needed.

Table 1.—Authorized Drilling Mud Types—Continued

TABLE 2.—AUTHORIZED MUD COMPONENTS/SPECIALTY ADDITIVES

[Table 2 may be updated by EPA, Region 10, during the effective period of this permit. If so, the latest updated version will supersede all earlier versions. Updated versions will be published in the *Federal Register* as part of future EPA, Region 10, general NPDES permits for Coastal and Offshore Subcategory oil and gas activities. Updates will take effect at the time of *Federal Register* publication.]

Primary additive function	Generic description [1]	Maximum allowable concentration (lb/bbl unless otherwise noted)	Product name
Substitute for Attapulgite or Bentonite Clay	Sepiolite	See Table 1	Sea Mud, Duragel.
Detection of Filtrate Re-Entry into Mud System	Ammonium nitrate	200 mg/1 nitrate	
	Sodium nitrate	200 mg/1 nitrate	
Detection of formation water intrusion	Sodium chloride	50,000 mg/1 chloride	
Mud log time Measurement	Calcium carbide	As needed	
Corrosion inhibitor (H_2S scavenger)	Basic zinc carbonate	do	Mil-Gard.
	Zinc carbonate and lime	do	Sulf-Ex ES.
	Zinc oxide	do	
Defoamer	Aluminum stearate	0.2	
	Aluminum stearate in propxylated oleylalcohol	10 gal/1500 bbls	LD-6.
	Dimethyl polysiloxane in an aqueous emulsion	0.1	Bara Brine Defoam.
Dispersant	Sodium polyphosphate	0.5 [2]	
Emulsifier	Sulfonated asphalt residuum	.6 [2]	Soltex.
Filtrate reducer	Lignite/resin blend	6 [2]	Durenex.
	Polymer treated humate	5 [2]	Chemtrol x
	Polymer treated humate	4 [2]	Poly RX
	Reacted phenol-formaldehyde-urea resin containing no free phenol, urea, or formaldehyde.	4 [2]	Resinex.
Flocculant	Vinyl acetate/maleic anhydride copolymer	0.1 [2]	Ben-ex.
Lost circulation material	Cellophane flakes	As needed	

TABLE 2.—AUTHORIZED MUD COMPONENTS/SPECIALTY ADDITIVES—Continued

[Table 2 may be updated by EPA, Region 10, during the effective period of this permit. If so, the latest updated version will supersede all earlier versions. Updated versions will be published in the *Federal Register* as part of future EPA, Region 10, general NPDES permits for Coastal and Offshore Subcategory oil and gas activities. Updates will take effect at the time of *Federal Register* publication.]

Primary additive function	Generic description [1]	Maximum allowable concentration (lb/bbl unless otherwise noted)	Product name
	Crushed granular nut hulls	do	
	Flakes of silicate mineral mica	45	
	Vegetable plus polymer fibers, flakes, and granules	50	
Lubricant	Fatty acid esters and alkyl phenolic sulfides in a solvent base	2	Bit Lube II.
	Liquid triglycerides in a vegetable oil	6	Torq-Trim II.
	Oleates in mixed alcohols	2	Lube 106.
	Phosphoric acid esters and triethanolamine	0.4	
	Plastic spheres	8	
	Sulfonated asphalt residuum	6 [2]	Soltex
	Vegetable ester formulation	2.0% (vol.)	Lubri-Sal
Shale control inhibitor	Poly treated humate	4 [2]	Poly RX
	Sulfonated asphalt residuum	6 [2]	Soltex
Spotting agent	Sulfonated vegetable ester formulation	1.0% (vol.)	Aqua-Spot
Surface active agent	Aqueous solution of nonionic modified phenol	3.0	DMS
	Blend of surfactants	0.5	D-D
	Ethoxylated alcohol formulation	0.04 gal/bbl	Milchem MD
	Fatty acid ester	0.25	MD (IMCO)
	Water solution of anionic surfactants	0.4	Con Det
Thinner	Chrome-free mud thinner containing sulfomethylated tannin	0.5	Desco CF.
	Polymer treated humate	4 [2]	Poly RX
	Polymer treated humate	5 [2]	Chemtrol x
	Sodium polyphosphate	0.5 [2]	
Viscosifier	Organophilic clay	12	VG-69
	Vinyl acetate/maleic anhydride copolymer	0.1 [2]	Ben-ex
	Xanthan gum polymer	2	Duovis, XC Polymer.

[1] Any proprietary formulation that contains a substance which is an intentional component of the formulation, other than those specifically described, must be authorized by the Director.
[2] Total amount allowed for all additive functions.

[FR Doc. 85-13001 Filed 6-3-85; 8:45 am]
BILLING CODE 6560-50-M

Federal Register

Tuesday
June 4, 1985

Part III

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Parts 1, 13, 14, 15, 16, 22, 25, 31, 33, 44, 52, and 53
Federal Acquisition Regulation; Final Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 13, 14, 15, 16, 22, 25, 31, 33, 44, 52, and 53

[Federal Acquisition Circ. 84-7]

Federal Acquisition Regulation

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: Federal Acquisition Circular (FAC) 84-7 amends the Federal Acquisition Regulation (FAR) with respect to the following: OMB Approval Under the Paperwork Reduction Act; Late Proposals and Modifications; Notification to Offerors; Allowable Cost and Payment Clause; Standard Form 99, Notice of Award of Contract; Equal Opportunity Preaward Clearance of Subcontracts; Purchases Under the Trade Agreements Act of 1979; Cost Principle On Insurance and Indemnification; Protests to the General Services Board of Contract Appeals; and Standard Form 24, Bid Bond. The Master List of Contractors for Negotiated Advance Agreements for IR&D/B&P Costs is included as an information item.

EFFECTIVE DATE: April 30, 1985.

FOR FURTHER INFORMATION CONTACT: Roger M. Schwartz, Director, FAR Secretariat, Room 4041, GS Building, Washington, D.C. 20405, Telephone (202) 523-4755.

SUPPLEMENTARY INFORMATION: .

A. Public Comments

The revisions to FAR Part 31 concerning the cost principle on insurance and indemnification are significant revisions as defined in FAR 1.501-1. Accordingly, public comments were requested in a notice at 49 FR 18321, April 30, 1984, and were considered in the formulation of the revisions. Public comments have not been solicited with respect to the other revisions in FAC 84-7 since such revisions either (a) do not alter the substantive meaning of any coverage in the FAR having a significant impact on contractors or offerors, or (b) do not have a significant effect beyond agency internal operating procedures.

B. Regulatory Flexibility Act

Pursuant to the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it has been determined that this final rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, and, therefore, no regulatory flexibility analysis has been prepared.

List of Subjects in 48 CFR Ch. I

Government procurement.

Dated: May 30, 1985.

Roger M. Schwartz,

Director, FAR Secretariat.

Federal Acquisition Circular

[Number 84-7]

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 84-7 is effective April 30, 1985.

Dwight Ink,

Acting Administrator.

S.J. Evans,

Assistant Administrator for Procurement, NASA.

Mary Ann Gilleece,

Deputy Under Secretary (Acquisition Management).

Federal Acquisition Circular (FAC) 84-7 amends the Federal Acquisition Regulation (FAR) as specified below. The following is a summary of the amendments:

Item I—OMB Approval Under the Paperwork Reduction Act

The Paperwork Reduction Act of 1980 requires that information collection requirements be approved by the Office of Management and Budget (OMB) and that the OMB control numbers assigned to these requirements be displayed in the regulation.

FAR 1.105 is revised to display the current listing of OMB control numbers assigned to FAR requirements.

Item II—Late Proposals and Modifications

FAR 15.412(c) is revised to delete the authority granted to NASA to accept late proposals and modifications to proposals. NASA has evaluated the history and use of this authority and concluded that its mission would not be significantly affected by the material's deletion.

Item III—Notification to Offerors

FAR 15.1001 (b) and (c) are revised to raise the threshold for prescribed preaward and postaward notices to unsuccessful offerors from $10,000 to $25,000. These changes had been made in Federal Procurement Regulations Temporary Regulation 77 in connection with the revision of the small purchase limitation, but were not made in the FAR.

Item IV—Allowable Cost and Payment Clause

FAR 16.307 is revised to add references to the applicable cost principles for contracts awarded to an educational institution, State or local government, or other nonprofit organization. FAR 31.105 is revised to add a reference to nonprofit organizations except those exempted under OMB Circular A-122. The preface to the clause at 52.216-7, Allowable Cost and Payment, is revised to remove duplicative language.

Item V—Standard Form 99, Notice of Award of Contract

FAR 22.608-5(b) is changed to remove the requirement for a contracting officer to submit a Standard Form 99, Notice of Award of Contract, to the Department of Labor if a Standard Form 279, Individual Contract Action Report, is submitted to the Federal Procurement Data System.

Item VI—Equal Opportunity Preaward Clearance of Subcontracts

FAR 22.810(g) is revised to correct the references to the clause prescriptions in FAR 44.204. The clauses at 52.244-1, 52.244-2, and 52.244-3 are retitled and the clause prescriptions at FAR 44.204 are changed to reflect the new clause titles.

Item VII—Purchases Under the Trade Agreements Act of 1979

The FAR text and clause concerning the Trade Agreements Act of 1979 have been revised to eliminate citing the applicable dollar threshold. In the future, information concerning revisions made by the U.S. Trade Representative of the dollar threshold will be distributed through agency procedures on an expedited basis. Under this procedure it will no longer be necessary to issue a FAR revision solely to update the dollar threshold determinations of the U.S. Trade Representative.

Item VIII—Cost Principle on Insurance and Indemnification

FAR 31.205-19(a)(3) is revised to make unallowable insurance costs in excess of the amount calculated by discounting at the Secretary of the Treasury rate of interest in those instances where an actual loss has occurred and the present value of the liability is determined under the provisions of CAS 416.50(a)(3)(ii).

Item IX—Protests to the General Services Board of Contract Appeals

FAC 84–6 added instructions concerning the filing of bid protests on certain ADP acquisitions with the General Services Board of Contract Appeals (GSBCA). FAR 33.105(a)(1), as published in FAC 84–6, requires service of a copy of the protest to the contracting agency within one day after the protest is filed with the GSBCA. The GSBCA has advised that rule 3(b)(2) of the GSBCA rules of procedure is intended to require the protester to serve a copy of the protest on the contracting agency on the same date the protest is filed with the GSBCA. Accordingly, FAR 33.105(a)(1), as published in FAC 84–6, is revised to conform the FAR with the GSBCA requirement.

Item X—Standard Form 24, Bid Bond

The first block of Standard Form 24, Bid Bond, is revised to instruct bidders that the bond must be executed not later than the bid opening date.

Item XI—Master List of Contractors for Negotiated Advance Agreements for IR&D/B&P Costs

The attached Master List of Contractors for Negotiated Advance Agreements for Independent Research and Development/Bid and Proposal Costs (Appendix A) is included as an information item to contracting officers.

Therefore, 48 CFR Chapter I is amended as set forth below.

1. The authority citation for 48 CFR Parts 1, 13, 14, 15, 16, 22, 25, 31, 33, 44, 52, and 53 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2453(c).

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

2. Section 1.105 is amended by removing all FAR segments and corresponding OMB Control Numbers and inserting in their place the following numbers:

1.105 OMB Approval under the Paperwork Reduction Act.

* * * * *

FAR Segment	OMB Control No.
3.103	9000-0018
3.4	9000-0003
4.102	9000-0033
4.7	9000-0034
5.403	9000-0036
8.203-2	9000-0017
9.1	9000-0011
9.2	9000-0020
9.5	9000-0019
14.202-4	9000-0040
14.202-5	9000-0039
14.205	9000-0002
14.205-4(c)	9000-0037
14.406	9000-0038
14.5	9000-0041
15.106	9000-0034
15.404	9000-0037
15.7	9000-0078
15.8	9000-0013
19.7	9000-0006
22.103	9000-0065
22.8	1215-0072
22.11	9000-0066
22.13	1215-0072
22.14	1215-0072
28.1	9000-0045
28.2	9000-0045
29.304	9000-0059
31	9000-0072
32.5	9000-0010
32.7	9000-0074
33	9000-0035
36.302	9000-0037
36.603	9000-0004 and 9000-0005
42.7	9000-0013
42.12	9000-0076
42.13	9000-0076
42.14	9000-0056
42.203	9000-0026
45	9000-0075
46	9000-0077
47	9000-0061
48	9000-0027
49	9000-0028
50	9000-0029
51.1	9000-0031
51.2	9000-0032
52.203-2	9000-0018
52.203-4	9000-0003
52.208-1	9000-0017
52.208-2	9000-0017
52.209-1	9000-0020
52.210-5	9000-0030
52.210-6	9000-0030
52.212-1	9000-0043
52.212-2	9000-0043
52.214-2	9000-0046
52.214-5	9000-0042
52.214-8	9000-0018
52.214-14	9000-0047
52.214-15	9000-0044
52.214-16	9000-0044
52.214-17	9000-0018
52.214-21	9000-0039
52.214-26	9000-0034
52.214-28	9000-0013
52.215-1	9000-0034
52.215-2	9000-0034
52.215-6	9000-0046
52.215-11	9000-0048
52.215-19	9000-0044
52.215-20	9000-0047
52.215-21	9000-0078
52.215-24	9000-0013
52.215-25	9000-0013
52.216-2	9000-0068
52.216-3	9000-0068
52.216-4	9000-0068
52.216-5	9000-0071
52.216-6	9000-0071
52.216-7	9000-0069
52.216-10	9000-0067
52.216-13	9000-0069
52.216-15	9000-0069
52.216-16	9000-0067
52.216-17	9000-0067
52.219-9	9000-0006
52.219-10	9000-0006
52.222-2	9000-0065
52.222-4	1215-0119
52.222-21	1215-0072
52.222-22	1215-0072
52.222-23	1215-0072
52.222-25	1215-0072
52.222-26	1215-0072
52.222-27	1215-0072
52.222-35	1215-0072
52.222-36	1215-0072
52.222-46	9000-0066
52.223-1	9000-0021
52.225-1	9000-0024
52.225-6	9000-0023
52.225-8	9000-0025
52.225-10	9000-0022
52.228-1	9000-0045
52.228-2	9000-0045
52.228-3	9000-0045
52.229-2	9000-0059
52.232-5	9000-0070
52.232-7	9000-0070
52.232-10	9000-0070
52.232-12	9000-0073
52.232-13	9000-0010
52.232-14	9000-0010
52.232-15	9000-0010
52.232-16	9000-0010
52.232-20	9000-0074
52.232-21	9000-0074
52.232-22	9000-0074
52.233-1	9000-0035
52.236-5	9000-0062
52.236-13	1220-0029 and 9000-0060
52.236-15	9000-0058
52.236-19	9000-0064
52.242-12	9000-0056
52.243-1	9000-0026
52.243-2	9000-0026
52.243-3	9000-0026
52.243-4	9000-0026
52.243-6	9000-0026
52.243-7	9000-0026
52.245-2	9000-0075
52.245-3	9000-0075
52.245-5	9000-0075
52.245-7	9000-0075
52.245-8	9000-0075
52.245-9	9000-0075
52.245-10	9000-0075
52.245-11	9000-0075
52.245-16	9000-0075
52.245-17	9000-0075
52.245-18	9000-0075
52.246-2	9000-0077
52.246-3	9000-0077
52.246-4	9000-0077
52.246-5	9000-0077
52.246-6	9000-0077
52.246-7	9000-0077
52.246-8	9000-0077
52.246-10	9000-0077
52.246-12	9000-0077
52.246-15	9000-0077
52.247-2	9000-0053
52.247-29	9000-0061
52.247-30	9000-0061
52.247-31	9000-0061
52.247-32	9000-0061
52.247-33	9000-0061
52.247-34	9000-0061
52.247-35	9000-0061
52.247-36	9000-0061
52.247-37	9000-0061
52.247-38	9000-0061
52.247-39	9000-0061
52.247-40	9000-0061
52.247-41	9000-0061
52.247-42	9000-0061
52.247-43	9000-0061
52.247-51	9000-0061
52.247-53	9000-0057
52.247-13	9000-0055
52.247-57	9000-0051
52.247-63	9000-0054
52.247-64	9000-0054
52.248-1	9000-0027
52.248-2	9000-0027
52.248-3	9000-0027
52.249-2	9000-0028
52.249-3	9000-0028
52.249-5	9000-0028
52.249-6	9000-0028
52.249-11	9000-0028
52.250-1	9000-0029
5SF 24	9000-0045
SF 25	9000-0045
5SF 25-A	9000-0045
5SF 25-B	9000-0045
5SF 28	9000-0001
5SF 34	9000-0045
5SF 35	9000-0045
5SF 119	9000-0003
5SF 129	9000-0002
5SF 254	9000-0004

FAR Segment	OMB Control No.
5SF 255	9000-0005
5SF 273	9000-0045
5SF 274	9000-0045
5SF 275	9000-0045
5SF 294	9000-0006
5SF 295	9000-0007
5SF 1403	9000-0011
5SF 1404	9000-0011
5SF 1405	9000-0011
5SF 1406	9000-0011
5SF 1407	9000-0011
5SF 1408	9000-0011
5SF 1411	9000-0013
5SF 1412	9000-0013
5SF 1413	9000-0014
5SF 1416	9000-0045
5SF 1417	9000-0037
5SF 1423	9000-0015
5SF 1424	9000-0015
5SF 1426	9000-0015
5SF 1427	9000-0015
5SF 1428	9000-0015
5SF 1429	9000-0015
5SF 1430	9000-0015
5SF 1431	9000-0015
5SF 1432	9000-0015
5SF 1433	9000-0015
5SF 1434	9000-0015
5SF 1435	9000-0012
5SF 1436	9000-0012
5SF 1437	9000-0012
5SF 1438	9000-0012
5SF 1439	9000-0012
5SF 1440	9000-0012
5SF 1443	9000-0010
All other requirements	9000-0063

PART 13—SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES

13.501 [Amended]

3. Section 13.501 is amended by removing in the first sentence of paragraph (g) the reference "4.201" and inserting in its place the reference "4.101".

PART 14—SEALED BIDDING

4. Section 14.407–8 is revised to read as follows:

14.407–8 Protests against award.

See Subpart 33.1, Protests.

PART 15—CONTRACTING BY NEGOTIATION

15.412 [Amended]

5. Section 15.412 is amended by removing in paragraph (c) the introductory phrase "Except as authorized for NASA in its regulations," and by capitalizing the word "Proposals," to begin the paragraph.

15.502 [Amended]

6. Section 15.502 is amended by removing the second word in the first sentence, and inserting in its place the word "shall".

15.903 [Amended]

7. Section 15.903 is amended by adding in the second sentence of paragraph (d)(2), following the word "However," the words "a deviation to"; and by removing in the second sentence the word "waived" and inserting in its place the word "authorized".

15.905–1 [Amended]

8. Section 15.905–1 is amended by removing in paragraph (b)(3) the word "terms" and inserting in its place the word "term".

15.1001 [Amended]

9. Section 15.1001 is amended by removing in the first sentence of paragraph (b)(1) the words "at over $10,000" and inserting in their place the words "to exceed the small purchase limitation in Part 13"; by removing in the first sentence of paragraph (c)(1) the words "over $10,000" and inserting in their place the words "exceeding the small purchase limitation in Part 13"; and by removing in paragraph (c)(3) the words of $10,000 or less" and inserting in their place the words "not exceeding the small purchase limitation in Part 13".

PART 16—TYPES OF CONTRACTS

10. Section 16.307 is amended by adding three sentences at the end of paragraph (a) to read as follows:

16.307 Contract clauses.

(a) * * * If the contract is with an educational institution, modify the clause by deleting from paragraph (a) the words "Subpart 31.2" and substituting for them "Subpart 31.3." If the contract is with a State or local government, modify the clause by deleting from paragraph (a) the words "Subpart 31.2" and substituting for them "Subpart 31.6." If the contract is with a nonprofit organization other than an educational institution, a State or local government, or a nonprofit organization exempted under OMB Circular No. A–122, modify the clause by deleting from paragraph (a) the words "Subpart 31.2" and substituting for them "Subpart 31.7."

* * * * *

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

11. Section 22.608–5 is amended by revising paragraph (b) to read as follows:

22.608–5 Award.

* * * * *

(b) Whenever Standard Form 279, Individual Contract Action Report, or its equivalent, is not submitted to the Federal Procurement Data System, furnish to the U.S. Department of Labor, Wage and Hour Division, Employment Standards Administration, Washington, D.C. 20210 a completed original and one copy of Standard Form 99, Notice of Award of Contract.

22.810 [Amended]

12. Section 22.810 is amended by removing in paragraph (g) the words "(c), or (e)" and inserting in their place the words "(b), or (c)".

PART 25—FOREIGN ACQUISITION

13. Section 25.402 is amended by revising paragraph (a); and by removing from paragraph (c) the figure "$161,000" and inserting in its place the words "the dollar threshold addressed in paragraph (a) above." to read as follows:

25.402 Policy.

(a) Executive Order 12260 requires the U.S. Trade Representative to determine from time to time the dollar threshold for use in implementing the Agreement on Government Procurement. The U.S. Trade Representative's dollar threshold determinations are published in the **Federal Register** and will be distributed through agency procedures on an expedited basis. Agencies shall evaluate offers at or over the dollar threshold for an eligible product without regard to the restrictions of the Buy American Act (see Subpart 25.1) or the Balance of Payments Program (see Subpart 25.3).

* * * * *

25.403 [Amended]

14. Section 25.403 is amended by removing in paragraph (a) the figure "$161,000" and inserting in its place the words "the dollar threshold discussed in 25.402(a)".

15. Section 25.405 is amended by removing in the introductory text the words "$161,000 or more" and inserting in their place the words "at or over the dollar threshold (see 25.402(a))"; and by revising paragraph (e) to read as follows:

25.405 Procedures

* * * * *

(e) Within seven working days after a contract award for an eligible product having a value equal to or exceeding the dollar threshold (see 25.402(a)), agencies shall give unsuccessful offerors from designated countries written notice that their offers were not accepted.

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

16. Section 31.105 is amended by revising the first sentence of paragraph (a) to read as follows:

31.105 Construction and architect-engineeer contracts.

(a) This category includes all contracts and contract modifications negotiated on the basis of cost with organizations other than educational institutions (see 31.104), State and local governments (see 31.107), and nonprofit organizations except those exempted under OMB Circular A–122 (see 31–108) for construction management or construction, alteration or repair of buildings, bridges, roads, or other kinds of real property. * * *

17. Section 31.205–19 is amended by inserting two sentences in paragraph (a)(3)(i), following the reference "(see 4 CFR 416.50(a)(2)(ii))"; and by removing from paragraph (f) the reference "(d)" and inserting in its place the reference "(a)(3)" to read as follows:

31.205–19 Insurance and indemnification.

(a) * * *

(3) * * *

(i) * * * In those instances where an actual loss has occurred and the present value of the liability is determined under the provisions of CAS 416.50(a)(3)(ii), the allowable cost shall be limited to an amount computed using as a discount rate the interest rate determined by the Secretary of the Treasury pursuant to 50 U.S.C. App. 1215(b)(2) in effect at the time the loss is recognized. However, the full amount of a lump-sum settlement to be paid within a year of the date of settlement is allowable.

* * * * *

PART 33—PROTESTS, DISPUTES, AND APPEALS

33.105 [Amended]

18. Section 33.105 is amended by removing in the third sentence of paragraph (a)(1), the words "no later than one day after the protest is filed with GSBCA" and inserting in their place the words "on the same day the protest is filed with the GSBCA".

PART 44—SUBCONTRACTING POLICIES AND PROCEDURES

44.204 [Amended]

19. Section 44.204 is amended by removing in paragraph (a)(1)(i) the word "Under" and inserting parentheses before "Fixed" and following "Contracts"; by removing in the first sentence of paragraph (b) the word "Under" and inserting parentheses before "Cost" and following "Contracts"; and by removing in the second sentence of paragraph (c) the word "Under" and inserting parentheses before "Time" and following "Contracts".

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52–216–7 [Amended]

20. Section 52.216–7 is amended by inserting a colon after the word "clause" in the first sentence of the introductory text and removing the remainder of the paragraph.

52.222–28 [Amended]

21. Section 52.222–28 is amended by removing the eighth word of the clause, i.e., " 'Subcontractors' ", and inserting in its place the word " 'Subcontracts' ".

52.225–9 [Amended]

22. Section 52.225–9 is amended by inserting a colon after the word "clause" in the introductory text and removing the remainder of the sentence; by removing in the title of the clause the date "1984" and inserting in its place the date "1985"; by removing from the third sentence of paragraph (b) of the clause the figure "$161,000" and inserting in its place "$. . . . .[*Contracting Officers shall insert the dollar threshold amount referenced in FAR 25.402(a)*]"; and by removing both derivation lines following "(End of clause)".

52.244–1 [Amended]

23. Section 52.244–1 is amended by removing in the title of the section the word "under" by inserting a colon after the word "clause" in the first sentence of the introductory text and removing the remainder of the paragraph; by removing in the title of the clause the word "UNDER" and inserting paretheses before "FIXED" and following "CONTRACTS"; and by removing the date "1984" and inserting in its place the date "1985".

52.244–2 [Amended]

24. Section 52.244–2 is amended by inserting a colon after the word "clause" in the first sentence of the introductory text and removing the remainder of the paragraph; by removing in the title of the clause the word "UNDER" and inserting parentheses before "COST" and following "CONTRACTS"; by removing the date "1984" and inserting in its place the date "1985"; and by removing all derivation lines following "(End of clause)".

52.244–3 [Amended]

25. Section 52.244–3 is amended by inserting a colon after the word "clause" in the introductory text and removing the remainder of the sentence; by removing in the title of the clause the word "UNDER" and inserting parentheses before "TIME" and following "CONTRACTS"; and by removing the date "1984" and inserting in its place the date "1985"; and by removing the derivation line following "(End of clause)".

PART 53—FORMS

53.228 [Amended]

26. Section 53.228 is amended by removing in paragraph (a) the date "(10/83)" and inserting in its place the date "(4/85)".

27. Section 53.301–24 (Standard Form 24) is revised to read as follows:

BILLING CODE 6820–61–M

53.301-24 Standard Form 24, Bid Bond.

OMB NO. 9000-0045

BID BOND
(See Instructions on reverse)

DATE BOND EXECUTED *(Must not be later than bid opening date)*

PRINCIPAL *(Legal name and business address)*

TYPE OF ORGANIZATION *("X" one)*
☐ INDIVIDUAL ☐ PARTNERSHIP
☐ JOINT VENTURE ☐ CORPORATION

STATE OF INCORPORATION

SURETY(IES) *(Name and business address)*

PENAL SUM OF BOND					BID IDENTIFICATION	
PERCENT OF BID PRICE	AMOUNT NOT TO EXCEED				BID DATE	INVITATION NO.
	MILLION(S)	THOUSAND(S)	HUNDRED(S)	CENTS	FOR *(Construction, Supplies or Services)*	

OBLIGATION:

We, the Principal and Surety(ies) are firmly bound to the United States of America (hereinafter called the Government) in the above penal sum. For payment of the penal sum, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally. However, where the Sureties are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of us. For all other purposes, each Surety binds itself, jointly and severally with the Principal, for the payment of the sum shown opposite the name of the Surety. If no limit of liability is indicated, the limit of liability is the full amount of the penal sum.

CONDITIONS:

The Principal has submitted the bid identified above.

THEREFORE:

The above obligation is void if the Principal – (a) upon acceptance by the Government of the bid identified above, within the period specified therein for acceptance (sixty (60) days if no period is specified), executes the further contractual documents and gives the bond(s) required by the terms of the bid as accepted within the time specified (ten (10) days if no period is specified) after receipt of the forms by the principal; or (b) in the event of failure so to execute such further contractual documents and give such bonds, pays the Government for any cost of procuring the work which exceeds the amount of the bid.

Each Surety executing this instrument agrees that its obligation is not impaired by any extension(s) of the time for acceptance of the bid that the Principal may grant to the Government. Notice to the surety(ies) of extension(s) are waived. However, waiver of the notice applies only to extensions aggregating not more than sixty (60) calendar days in addition to the period originally allowed for acceptance of the bid.

WITNESS:

The Principal and Surety(ies) executed this bid bond and affixed their seals on the above date.

PRINCIPAL

Signature(s)	1. (Seal)	2. (Seal)	*Corporate Seal*
Name(s) & Title(s) *(Typed)*	1.	2.	

INDIVIDUAL SURETIES

Signature(s)	1. (Seal)	2. (Seal)	
Name(s) *(Typed)*	1.	2.	

CORPORATE SURETY(IES)

SURETY A	Name & Address		STATE OF INC.	LIABILITY LIMIT $
	Signature(s)	1.	2.	*Corporate Seal*
	Name(s) & Title(s) *(Typed)*	1.	2.	

NSN 7540-01-152-8059
PREVIOUS EDITION NOT USABLE

24-105

STANDARD FORM 24 (REV. 4-85)
Prescribed by GSA
FAR (48 CFR 53.228(a))

CORPORATE SURETY(IES) *(Continued)*

SURETY B	Name & Address		STATE OF INC.	LIABILITY LIMIT $	*Corporate Seal*
	Signature(s)	1.	2.		
	Name(s) & Title(s) *(Typed)*	1.	2.		
SURETY C	Name & Address		STATE OF INC.	LIABILITY LIMIT $	*Corporate Seal*
	Signature(s)	1.	2.		
	Name(s) & Title(s) *(Typed)*	1.	2.		
SURETY D	Name & Address		STATE OF INC.	LIABILITY LIMIT $	*Corporate Seal*
	Signature(s)	1.	2.		
	Name(s) & Title(s) *(Typed)*	1.	2.		
SURETY E	Name & Address		STATE OF INC.	LIABILITY LIMIT $	*Corporate Seal*
	Signature(s)	1.	2.		
	Name(s) & Title(s) *(Typed)*	1.	2.		
SURETY F	Name & Address		STATE OF INC.	LIABILITY LIMIT $	*Corporate Seal*
	Signature(s)	1.	2.		
	Name(s) & Title(s) *(Typed)*	1.	2.		
SURETY G	Name & Address		STATE OF INC.	LIABILITY LIMIT $	*Corporate Seal*
	Signature(s)	1.	2.		
	Name(s) & Title(s) *(Typed)*	1.	2.		

INSTRUCTIONS

1. This form is authorized for use when a bid guaranty is required. Any deviation from this form will require the written approval of the Administrator of General Services.

2. Insert the full legal name and business address of the Principal in the space designated "Principal" on the face of the form. An authorized person shall sign the bond. Any person signing in a representative capacity (e.g., an attorney-in-fact) must furnish evidence of authority if that representative is not a member of the firm, partnership, or joint venture, or an officer of the corporation involved.

3. The bond may express penal sum as a percentage of the bid price. In these cases, the bond may state a maximum dollar limitation (e.g., 20% of the bid price but the amount not to exceed _____ dollars).

4. (a) Corporations executing the bond as sureties must appear on the Department of the Treasury's list of approved sureties and must act within the limitation listed herein. Where more than one corporate surety is involved, their names and addresses shall appear in the spaces (Surety A, Surety B, etc.) headed "CORPORATE SURETY(IES)". In the space designated "SURETY(IES)" on the face of the form, insert only the letter identification of the sureties.

(b) Where individual sureties are involved, two or more responsible persons shall execute the bond. A completed Affidavit of Individual Surety (Standard Form 28), for each individual surety, shall accompany the bond. The Government may require these sureties to furnish additional substantiating information concerning their financial capability.

5. Corporations executing the bond shall affix their corporate seals. Individuals shall execute the bond opposite the word "Corporate Seal", and shall affix an adhesive seal if executed in Maine, New Hampshire, or any other jurisdiction requiring adhesive seals.

6. Type the name and title of each person signing this bond in the space provided.

7. In its application to negotiated contracts, the terms "bid" and "bidder" shall include "proposal" and "offeror".

STANDARD FORM 24 BACK (REV. 4-85)

Note.—The following appendix is included as an information item to contracting officers and will not appear in the Code of Federal Regulations.

Appendix A—Master List of Contractors for Negotiated Advance Agreements for Independent Research and Development and Bid and Proposal Costs

This Circular contains a revised master list for informational purposes of contractors requiring lead agency negotiation of advance agreements for Independent Research and Development and Bid Proposal costs (FAR SUBPART 42.10).

Questions as to assignments of negotiation cognizance and inclusion or exclusion of contractors on the master list should be directed to the agencies as follows:

Air Force: Headquarters, Air Force Systems Command, Attn: AFSC/PMMO, Andrews Air Force Base, Maryland 20334.

Army: Commander Materiel Development and Readiness, Command, Department of the Army, Attn: DRCPP-SC, 5001 Eisenhower Avenue, Alexandria, Virginia 22333.

Navy: Headquarters, Naval Material Command, Attn: Director, Navy Triservice (NAVMAT 0224), Washington, D.C. 20360.

Contractor	Negotiating department [1]
AAI Corporation	Navy.
ARO ENG	AF.
Aerojet General Corporation	Navy.
Applied Physics Lab (JHU/APL)	Navy.
Atlantic Research Corporation	AF.
Automation Industries, Inc.	Navy.
AVCO	Army
Baird Atomic Inc	AF.
Ball Corporation	Navy.
Bendix Corporation	Navy.
Boeing Company	AF.
Burroughs Corporation, Federal & Special Systems Group.	AF.
CCI Marquardt Corporation	AF.
Celesco Industries Inc	AF.
Charles Stark Draper Laboratory, Inc	Navy.
Cincinnati Electronics	Army
Computer Sciences Corporation	Navy.
Control Data Corporation	AF.
Cubic Corporation	Navy.
Curtiss-Wright Corporation	AF.
DATATAPE	AF.
Eastman Kodak	AF.
E-Systems, Inc.	Navy.
Eaton Corporation	Navy.
Electrospace	AF.
Emerson Electric Company	AF.
FMC Corporation	Army.
Except:	
Northern Ordnance Division	Navy.
Fairchild Industries, Inc	AF.
Farrand Optical Company	AF.
Ford Motor Company	Navy.
GTE Products Corporation	Navy.
Garrett Corporation	AF.
General Dynamics Corporation	AF.
Except:	
Land Systems	Army
General Electric Company	AF
General Motors Corporation	AF
Except:	
Transmission Operations	Army.
Goodyear Tire & Rubber Company	Navy.
Gould, Inc.	Navy.
Grumman Aerospace Corporation	Navy.
HARSCO/BMY	Army.
Harris Corporation	Navy.
Hazeltine	Army.
Hercules	Navy.
Honeywell, Inc	AF.
Hughes Aircraft Company	AF.
IBM Corporation	AF.
IT&T Corporation	AF.
Interstate Electronics Corporation	Navy.
Itek Corporation	AF.
Lear Siegler, Inc	AF.
Linkabit	AF.
Litton Systems, Inc	Navy.
Lockheed Aircraft Corporation	AF.
Loral Corporation	AF.
Magnavox Corporation	Navy.
Martin Marietta Corporation	AF.
McDonnell Douglas Corporation	AF.
Except:	
Huges Helicopter	Army.
Morton Thiokol	AF.
Motorola	Army.
Northrop Corporation	AF.
Page Communication Engineers	AF.
Pan American World Airways, Inc	AF.
Perkin Elmer Corporation	AF.
RCA Corporation	Navy.
Raytheon	Army.
Rockwell International Corporation	AF.
Rosemount, Inc	AF.
Sanders Associates, Inc	Navy.
Simmonds Precision	AF.
Singer Company	AF.
Sperry Corporation	AF.
Stanford Research Institute	Army.
Sundstrand Corporation	AF.
Systems Development Corporation	AF.
Teledyne, Inc	AF.
Except:	
Teledyne Systems Company	Navy.
Teledyne Continental Motors	Army.
Texas Instruments, Inc	Navy.
Textron	Army.
Except:	
Bell Aerospace	AF.
TRACOR	AF.
TRW, Inc	AF.
Except:	
ESL, Inc	Army.
United Technologies Corporation	Navy.
Except:	
Chemical Systems Division	AF.
Varian Associates	AF.
Vought Corporation	Navy.
Western Electric/Bell Labs	Army.
Westinghouse Electric Company	Navy.
Williams Research Corporation	AF.
Xerox Corporation	AF.

[1] Negotiating Department for components of contractor operations except as noted.

[FR Doc. 85-13380 Filed 6-3-85; 8:45 am]
BILLING CODE 6820-61-M

Federal Register

Tuesday
June 4, 1985

Part IV

Department of Labor

Mine Safety and Health Administration

30 CFR Part 57

Safety Standards for Gassy Metal and Nonmetal Mines; Proposed Rule

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 57

Safety Standards for Gassy Metal and Nonmetal Mines

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Proposed rule.

SUMMARY: This proposed rule would update, clarify and revise MSHA's existing safety standards for gassy metal and nonmetal mines. It would establish a new procedure for categorizing mines with a history of, or a potential for, methane liberation. Safety standards to protect miners in each category would be dependent upon, among other things, the quantity and type of gas emission.

DATES: Comments must be received on or before August 5, 1985.

ADDRESSES: Send comments to the Office of Standards, Regulations, and Variances; MSHA; Room 631, Ballston Towers #3; 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, MSHA, (703) 235–1910.

SUPPLEMENTARY INFORMATION:

I. Background

On March 25, 1980, MSHA published an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** (45 FR 19267) announcing its comprehensive review of metal and nonmetal mine safety and health standards published in 30 CFR Parts 55, 56, and 57. On November 20, 1981, MSHA published a subsequent ANPRM in the **Federal Register** (46 FR 57253) listing eight sections of Parts 55, 56, and 57 that the Agency had selected for a priority review. Standards relating to gassy mines in 30 CFR 57.21 were included in the priority group.

On March 9, 1982, MSHA published a Notice in the **Federal Register** (47 FR 10190) announcing public conferences to discuss issues related to the gassy mine standards. Conferences were concluded in May 1982. Many participants requested that MSHA make a draft proposal available to the public before issuing the proposed rule. MSHA therefore developed a draft proposal of procedures and standards for gassy mines, and announced its availability for review and comment in the **Federal Register** on June 10, 1983 (48 FR 27025). The Agency received and reviewed suggestions and recommendations from many commenters including mine operators, labor groups, and mining organizations.

Industry-wide participation in MSHA's public conferences and the comments received by the Agency on the existing classification system and safety standards have underscored the need for a complete revision of the gassy mines standards.

In drafting the proposed rule, MSHA has attempted to clearly convey the requirements for each category or subcategory and related standards. The proposed standards are intended to address hazards to persons and are not directed toward protection of property where life would not be endangered.

Methane gas is a flammable gas found in underground mining. Although it is usually associated with underground coal mines, it also occurs in some metal and nonmetal mines. The potential for methane gas exists in mines located in almost every state in the United States and in virtually every commodity mined underground. Methane gas is colorless, odorless, tasteless, and tends to rise to the roof of a mine because it is lighter than air. Although methane gas is nontoxic, it reduces the oxygen content by dilution when mixed with air, and it can act as an asphyxiant.

Methane may enter the mining environment from a variety of sources including fractures, faults, or shear zones overlying or underlying the strata that surrounds the ore body, or from the ore body itself. It may occur as an occluded gas within the ore body. Methane also may be generated by the action of bacteria on mine timbers. Methane mixed with air is explosive in the range of from 5 to 15 percent methane provided that 12 percent or more oxygen is present. The presence of dust containing volatile matter in a gassy atmosphere may further enhance the explosion potential of methane in a mine.

After a gas or dust ignition, the mine atmosphere often contains toxic gases and oxygen-deficient air. Flammable dust, timbers and other combustibles can be ignited by fires following a gas explosion. For these reasons methane gas cannot be permitted to accumulate underground.

Under the existing classification system in Section 57.21001, a mine is either gassy or nongassy, and is considered to be gassy if one or more of the following criteria are met: the State classifies it as gassy, a flammable gas ignition has occurred, a concentration of 0.25 percent or more of flammable gas has been detected, or it is connected to a gassy mine. Every mine that is classified gassy must comply with identical safety standards regardless of the type and frequency of methane occurrence, the mining method, the combustibility of the ore being mined, the geology of the ore body or the surrounding strata, or other related factors.

MSHA is proposing to revise its existing standards for gassy underground mines to upgrade safety provisions which are consistent with advances in mining technology. The revisions would also eliminate unnecessary standards, consolidate duplicative standards, provide alternative methods of compliance to the existing standards and reduce recordkeeping requirements. MSHA believes that the proposed rule will result in more effective standards for protecting the safety of miners in the least burdensome manner.

MSHA's review has resulted in many substantive changes. These changes are generally consistent with commenters' suggestions and recommendations, the goals of Executive Order 12291, the Regulatory Flexibility Act, and the Paperwork Reduction Act.

The proposed rule would completely change the concept and procedure for classifying gassy mines. The new category system would consider both the actual liberation of methane and the potential to liberate methane, the type of gas occurrences, the degree of hazards, and the diversity of mining methods. It would also consider the history of the mine and the history of the geological area in which the mine is located. The potential to liberate methane would take into consideration such factors as combustible ore being mined (Subcategories I–B, oil shale, and V–B, liquid petroleum), dust containing volatile matter and the geological area of the mine (Subcategory I–C, gilsonite), and the geological area of the mine (Subcategory II–B, domal salt). Due to MSHA's concern for the safety of miners in these types of mines, the proposed rule contains the minimum requirements to protect miners from the danger of encountering methane gas and volatile gilsonite dust. The new category system, which was introduced in the preproposal draft, has generally received wide support from the metal and nonmetal mining community.

In this proposal, the Agency has developed standards which are unique to each category of mines. Consequently, mines would be required to comply only with standards that apply to a particular category or subcategory. In addition, recordkeeping provisions would be reduced. Wherever possible, a system of certification by

signature and date would be established to indicate that a required inspection or task has been accomplished.

II. Discussion of the Proposed Rule

This proposal reflects the Agency's agreement with commenters that the identification and categorization of individual mines based on the types of occurrence, mine history and geological area of the mine is preferable to the existing classification system. A deep mine containing large amounts of carbonaceous material would be expected to encounter more and higher concentrations of methane than a shallow mine extracting a noncarbonaceous material. Mines that have experienced or have the potential for an outburst, or continuously liberate methane, or intermittently liberate methane, all have different types of emissions and hazards.

Under this proposal each mine, whether currently classified as gassy or nongassy, would be placed into one of six categories. Category or subcategory placement or a change in placement would include consideration of: the liberation of methane or the potential to liberate methane; scope of each category or subcategory; the history and geology of the mine or the geological area in which the mine is located; the ore body and host rock; analysis of methane gas samples, and the character, amount, duration, origin and nature of methane emissions; and the presence of explosive dust or inert gases. This procedure would be applicable to all mines.

The Administrator for Metal and Nonmetal Mine Safety and Health would be responsible for category placement and notification to the affected mine operators. Initially, the Administrator would place all mines that have been classified as gassy under the existing standard and those which have the potential for methane gas into an appropriate category. Other mines will be placed into Category VI because the presence of methane gas has not been established.

Upon notification of the opening or reopening of a new mine under 30 CFR 57.1000, or other occurrence under proposed § 57.30004, such as a change in methane conditions, or the occurrence of an outburst, blowout or methane ignition requiring notification, the Administrator may appoint an MSHA committee to promptly investigate the occurrence reported. While conducting the investigation, the Administrator may hold a fact-finding hearing, interview company officials, employees and other persons having knowledge of the occurrence or the mine, and obtain all records relating to a methane emission or explosion, or dust explosion. Representatives of the mine operator, the miners and the State agency charged with the responsibility for miner safety may participate in the investigation. Thereafter, the Administrator would make a decision with respect to placement or change in placement, and provide the mine operator and representatives of the miners with a copy of the decision.

The Administrator's determination of placement or change in placement would become final 30 days after it is served upon the mine operator and the representative of the miners unless a request for a hearing is filed with the Assistant Secretary of Labor for Mine Safety and Health within the 30-day period. The Administrator's determination and the request for a hearing, if any, would be posted on the mine bulletin board and would remain there while the appeal is pending. The Assistant Secretary would refer the appeal request to the Chief Administrative Law Judge, United States Department of Labor who would appoint an Administrative Law Judge to preside over the hearing and to make an initial decision. The initial decision by the Administrative Law Judge would become final unless discretionary review is taken by the Assistant Secretary or the decision is appealed to the Assistant Secretary who upon review would make the final decision. Only a decision by the Assistant Secretary would be subject to judicial review.

The hearing rules would be the rules of practice and procedure published in 29 CFR Part 18. They are substantially similar to those currently provided for Petitions for Modification under 30 CFR Part 44. This is consistent with public comment and would allow for the development of a record prior to a final decision by the Assistant Secretary. The decisions by the Administrative Law Judge and the Assistant Secretary would be based upon a preponderance of the evidence and a consideration of the entire record of the proceedings.

On January 29, 1985, MSHA published a recodification and renumbering of the safety and health standards for metal and nonmetal mines in Title 30 of the Code of Federal Regulations (50 FR 4048). This final rule reorganized and restructured § 57.21 as new Subpart T (gassy mines). The procedural and safety standards for Subpart T would be placed in seven related groups under the following centered headings: Mine Categorization, Fire Prevention and Control, Ventilation, Equipment, Underground Retorts, Illumination, and Explosives; an eighth group, Miscellaneous, is included for Subcategory I–C mines.

Each proposed standard in Part 57 would have a topic heading. MSHA intends to establish a comprehensive index to the metal and nonmetal standards when the revisions to Parts 56 and 57 are complete. To further assist in understanding the rule, the proposed rule provides two Appendices. Appendix 1 is a derivation table that cross-references existing standards with draft proposed and proposed standards. Appensix 2 describes the methane levels at which actions must be taken. Both reference tables would also be included in the final rule.

Section-by-Section Discussion

The following is a summary section-by-section analysis of the development of the proposal.

Section 57.30001 Scope.

This new proposal would replace § 57.21000. It would provide that all metal and nonmetal underground mines be placed into one of the categories and subcategories to protect miners against the hazards of methane gas. Each mine would be required to operate in accordance with the safety standards applicable to its category or subcategory. All these mines would also be operated in accordance with the other applicable health and safety standards published in 30 CFR Part 57.

Section 57.30002 Definitions.

Under the proposal, the standards in Subpart T would be preceded by their own set of definitions which are discussed below.

Abandoned areas. The proposed new definition would define "abandoned areas" as areas where work has been completed, further work is not planned, and travel is not permitted. This definition would distinguish such areas from sections or panels that are temporarily shut down.

Approved. The existing definition of "approved" means tested and accepted for a specific purpose by a nationally recognized agency. The proposed definition would narrow the scope of the term to apply only to equipment that MSHA has issued a formal document stating that the applicable MSHA requirements in 30 CFR Parts 11 through 36, as appropriate, have been met.

Blowout. The proposed new definition would distinguish blowouts that could occur in petroleum mining from outbursts that have or could occur in certain domal salt mines and could occur in other mines. Commenters recommended defining both terms

because the characteristics of the two types of occurrences are different. MSHA agrees and proposes to define a "blowout" to mean a sudden, violent, unplanned release of gas or liquid due to reservoir pressure in petroleum mines. Outbursts are defined below.

Certified. The proposed new definition would clarify the term "certified" to mean a formal designation applied by MSHA to a subassembly or component meeting the testing requirements of the applicable Parts of 30 CFR.

Combustible material. The proposed revised definition of the term "combustible" is the same as MSHA's new fire standards definition recently published in the **Federal Register** (50 FR 4022). The proposed definition would define "combustible" to mean a material that in the form in which it is used and under the conditions anticipated will ignite, burn, support combustion, or release flammable vapors when subjected to fire or heat. Examples are wood, paper, rubber and plastics.

Competent person. The proposed definition would revise the existing definition that requires persons who have the ability and experience to be designated and assigned by the mine operator to perform certain tasks. The draft proposed standards would have replaced the existing definition with wording in the appropriate standards that certain tests or examinations are to be carried out by "a person designated by the operator." While some commenters accepted this concept by including the same or similar wording in their suggested standards, other commenters indicated that the word "person" should be changed to "competent person" or some other language signifying an individual who has the unique qualifications to test for methane or to examine the mine for hazardous conditions. MSHA agrees and has proposed a performance definition that would require the operator to select only those persons who have sufficient experience and task training to be assigned to such tasks as testing for methane gas or examining the mine for dangerous conditions.

Explosive materials. This definition is based on the existing definitions for explosives, blasting agents, and detonators. Explosive and blasting agent would mean any substance classified as an explosive or a blasting agent by the Department of Transportation in the 1984 edition of the Code of Federal Regulations (Title 49), rather than the 1979 edition used in the existing definitions. The examples of detonators has been clarified by listing blasting caps, electric or non-electric instantaneous or delay blasting caps and delay connectors. These definitions are consistent with the Department of Transportation regulations which are used industry-wide.

Geological area. The proposed new definition would define one of the new criteria for placing a mine in a category or subcategory. The term "geological area" would replace the term "geological province" that was used in the draft proposed Categories and Subcategories I through IV. Draft proposed Category II mines were defined as "mines located within a geological province where the history of the province . . . indicates the presence of outbursts. . . ." Commenters indicated that this term was of a general nature and too vague to be a useful basis for determining the hazard of methane gas that might be associated with a particular mine. While these commenters were not opposed to the consideration of geological conditions in defining and determining category or subcategory placement, they were opposed to the use of the geological history of the entire province. The term "geological province" is replaced with the term "geological area" which means an area characterized by the presence of the same ore body, the same stratigraphic sequence of beds, or the same ore-bearing formation.

Intrinsically safe. The proposed new definition is consistent with the definition of the same term used in 30 CFR 18.2. Commenters recommended the inclusion of intrinsically safe equipment both by definition and appropriate standards for gassy mines. MSHA agrees and in response to those comments proposes to define "intrinsically safe" to mean incapable of releasing enough electrical or thermal energy under normal or abnormal conditions to cause ignition of a flammable mixture of methane in the air of the most easily ignitable composition.

Intrinsically safe is a term used only in the proposed Mine-Wide Monitoring System standards applicable to mines in Subcategories I–A and II–A and Category V. The proposal would provide that components meet applicable permissibility requirements, or that they be intrinsically safe or explosion proof. Permissible components are not commercially available for use in all mining situations. The requirements for intrinsically safe components are specified in 30 CFR 18.68. This intrinsically safe concept is retained, and would assure that consideration be given to the most hazardous, probable faults, malfunctions and environmental conditions that might be encountered in a mine. Such conditions include overheating and short-circuiting of the components, power surges, corrosive elements and water damage. To avoid disasters and to protect miners in the confined, underground environment, it is essential that components not provide an ignition or explosion source under the most hazardous operating conditions including ignitable mixtures of methane gas.

Intermittently liberates methane. The proposed new definition would provide a distinction between an intermittent liberation of methane and a continuous liberation on a repeated basis. Commenters expressed concern that release of gas from pressure-relief holes may be construed as a continuous release. Accordingly, MSHA proposes to define the term "intermittently liberates methane" to mean the release of methane at occasional and sporadic intervals, and in indeterminate quantities.

Mine atmosphere. The proposed new definition would clarify the locations where tests for methane are to be taken in the atmosphere of an underground mine. Existing standards §§ 57.21001(c), 57.21039, 57.21040, 57.21076, and 57.21100 repeatedly refer to the detection of methane "not less than 12 inches from the back, face, or ribs." The phrase "not less than 12 inches from the back, face, rib and floor" was used throughout the draft proposed standards. Commenters indicated that the phrase was not appropriate for Category IV mines because there was no provision for the testing locations for point sources of methane emission. Commenters also recommended the term "general mine atmosphere." MSHA agrees in principle with these commenters and has rewritten the definition to define the term "mine atmosphere" to mean any point at least 12 inches away from the back, face, rib, and floor. In addition, the measurement in a Category IV mine would have to be at least three feet laterally away from the collar of a borehole which releases gas into the mine.

Noncombustible material. The proposed new definition for the term "noncombustible material" is the same as MSHA's new fire standards.

The proposed definition would define "noncombustible material" as a material that in the form in which it is used and under the anticipated conditions will not ignite, burn, support combustion, or release flammable vapors when subjected to fire or heat. Examples of such materials are concrete, masonry block, brick, and steel.

Outburst. The proposed new definition would distinguish an outburst

from a blowout. The draft proposal would have defined an "outburst" as a sudden, violent release of occluded gases and solids under high pressure from a geologic formation. Commenters pointed out that this definition could be confused with a blowout. The distinction between them is that an outburst releases occluded gases and a blowout releases gas or liquid under reservoir pressure in a petroleum mine (Subcategories V–A and V–B). Commenters also indicated that the liberated occluded gases should specify methane gas. MSHA agrees and the words occluded gases "including methane" have been added to the proposed definition. The extent would be determined by testing for methane in the mine atmosphere. MSHA has proposed that "outburst" mean the sudden, violent release of solids and high-pressure occluded gases including methane.

Permissible. The existing definition would be changed to make reference to MSHA's testing, approval and certification requirements published in 30 CFR Parts 11 through 36. The proposed definition would also delete the reference to the "Bureau of Mines."

Substantial construction. The proposed definition would change the existing definition as used in this Subpart which defines the term to mean construction of such strength, material, and workmanship that the object will withstand all reasonable shock, wear, and usage to which it will be subjected. Air blasts, blasting shock, ground movement and pressure differences were added to clarify factors to be considered in determining the construction of seals, certain stoppings, overcasts and undercasts.

Section 57.30003 Mine categorization.

This proposal would revise existing Standards § 57.21001, and appeared as draft proposal § 58.21–2. The draft proposal defined five categories into which all underground mines would be placed. MSHA believes that such a category system more accurately addresses the varying degree of hazards and the diversity of metal and nonmetal mines within the industry.

The existing classification system provides that a mine is considered gassy if the State in which the mine is located classifies it as gassy. Under the proposal, mines would no longer be classified as gassy based upon State action. However, the proposal would not affect existing state mining law. The existing system requires compliance with a single set of standards which were generally of coal mining origin. Commenters generally agreed with the proposed concept of mine categories and subcategories.

Under the proposal, all underground metal and nonmetal mines would be placed in one of six categories based on the nature and likelihood of methane hazards. The first five categories would address mines which have either experienced methane hazards or have the potential for such hazards. The sixth category, representing the remainder of the underground mines, would incur regulatory obligations only if methane is detected. Should this happen, immediate action would be taken to protect the affected miners by implementing certain safeguard provisions. Under this category no action would be required if methane is not detected. These categories and subcategories are discussed individually as follows:

Category I. This category would apply to mines operating in a combustible ore body. It is further divided into three subcategories which address (A) methane concentrations anticipated in deep mines, (B) methane concentrations anticipated in outcrop mines, and (C) methane concentrations in conjunction with highly volatile ore dusts such as occur in gilsonite mines.

Subcategories I–A and I–B. Commenters specifically objected to the draft proposed requirement of 100 ppm methane limitation in return air, use of the term "province" regarding the geology of the mine, and reference to the water table for subcategory placement. Commenters suggested higher methane levels than those in the draft proposal with time intervals specified between samples where methane was detected. MSHA has incorporated many commenter suggestions and addressed their concerns. The 100 ppm in return air was deleted, as was reference to the water table; "geological province" was replaced with the term "geological area," and a definition of this terminology is proposed.

The concept of forecasting methane hazards in metal and nonmetal underground mines by the detection of 100 ppm in the return was not considered to be feasible due to the high cost of the test equipment needed to accurately measure such low concentrations of methane gas.

Commenters also suggested that only gas ignitions which cause injury, or have the potential to do so, should be considered in subcategory placement. Such factors are expected to be considerations incorporated into the placement change investigation defined in § 57.30004.

Subcategory I–C: Gilsonite is a solid form of crude oil that contains highly volatile material. It is combustible ore and a very small amount of gilsonite dust can cause a flash fire. Gilsonite has been mined in the United States for over a century. Vertical deposits are found in Utah and the product is used in varnishes, stains, inks, roofing, and molded articles. Mining is accomplished by the use of hand-held pneumatic chippers in a stoping mining bench method (large open trench). The extracted ore is generally transported to the surface by vacuum air lifts. The main fan located on the surface is the source for the vacuum power. Gilsonite dust has a high ignition sensitivity and explosive potential.

Commenters objected to a separate subcategory for this type of mine; others expressed agreement with the separation. MSHA believes that the mining methods, equipment, and the general mine environment in this type of mine are unique in the mining industry and a separate subcategory is warranted. Further, the highly volatile content of the ore dust enhances the potential for an explosion when combined with the liberation of methane gas. Between 1954 and 1983 there have been eight explosions of gilsonite dust, methane gas, or a combination of both that have resulted in fatalities or serious injuries to miners. In addition there was an inundation of dangerous quantities of methane in a gilsonite mine. MSHA has reviewed these occurrences and other relevant data. The proposal specifically addresses the unique hazards of gilsonite mining.

The word "percent" was inadvertently omitted in the draft proposal in designating the volatile matter content of the dust. This has been corrected.

Category II. Commenters suggested alternate language for this category and subcategories. Objections were expressed to use of the terms "geological province," "outburst," and "potential." Commenters also believed that the draft proposal was too general and was vague as to the intended coverage. MSHA has rewritten the draft proposal and has explicitly limited the coverage of Category II to domal salt mines. The category is further divided into two subcategories; one subcategory for mines where an outburst has occurred and another for mines where an outburst has not occurred. The proposed safety standards for each subcategory are intended to address the different hazard potentials. The term "geological province" has been replaced with the term "geological area" which is defined. The definition of an outburst has been changed for clarity. Some commenters were concerned that blowouts and rockbursts would be

interpreted broadly as an outburst. However, the proposed definitions of outburst and blowout should preclude misinterpretation.

Category III. Commenters objected to the use of the term "geological province" regarding the geology of the mine as much too broad. MSHA has replaced the term "geological province" with "geological area" and proposed a definition for this new term. Commenters also suggested wording to describe the liberation of methane "on a continuous and prolonged basis in hazardous concentrations." The term "prolonged" was not used as it is considered synonymous with the term "continuous" and is redundant in reference to liberation of methane in a mine where methane may build to hazardous concentrations. The intent of these proposed regulations is the control of methane hazards rather than actions subsequent to an ignition.

Category IV. Commenters recommended two subcategories for this category. One subcategory was suggested for mines in which an ignition had occurred or in which methane, in hazardous concentrations, had been detected within the preceding five years. The other suggested subcategory was for all other mines that might intermittently liberate methane. MSHA recognizes the concerns of these commenters and considered the various quantities of methane that such mines might liberate, the different physical conditions associated with the methane liberations, and the total mixture content of the gas emitted. MSHA also acknowledges that these mines normally operate without significant amounts of methane, and may operate for long periods without presence of any methane. Some mines in this category liberate methane along with inert gases in amounts that create a noncombustible mixture. Such gas mixtures often emit from pressure-relief boreholes drilled in the mine roof. However, all of the mines in this category operate under such conditions with nonpermissible equipment. All of them either liberate methane intermittently or have the potential to do so. In the proposed standards for mines in this category, MSHA attempted to direct most of the requirements, except for testing, toward actions to be taken after methane has been detected. MSHA believes that the precautionary-type standards will assure the safety of miners without undue hardship to the mine operator.

Category V. Commenters suggested a separate category or subcategory for petroleum mines and expressed a preference for certain standards proposed for mines in Category II. MSHA generally agrees with commenters' recommendations and has proposed placing these mines into a separate category which is divided into Subcategories V–A and V–B. However, the major difference is that the product mined is in liquid form. Otherwise, recognized mining practices are used and methane hazards, including blowouts, are basically the same. The proposed standards for petroleum mines were generally taken from Category II.

Category VI. Under the existing standards, all underground metal and nonmetal mines are subject to the gassy classification and the provisions of Subpart T if there is a methane occurrence or state designation. Using the proposed category system, all underground mines not otherwise designated would be placed in Category VI. In this category, operators would be responsible for implementing certain safeguard standards only if methane is detected. These actions would continue until the completion of an Agency investigation and final appropriate action. Some commenters suggested the removal of Category VI (which appeared in the proposed draft as Category V) contending it unnecessary to impose standards on mines which have no gas problems.

However, as proposed, mines in Category VI with no methane would have no additional regulatory obligations. Category VI was created to assure that an immediate level of protection would be provided to affected miners in the event of a methane occurrence in those mines not previously exhibiting any such history or located where methane had been experienced.

Under the existing classification procedure, metal and nonmetal mines must comply with the safety standards only after methane gas is found by MSHA or the mine operator. If MSHA should find methane gas, then the Agency would notify the mine operator, but if the mine operator should find the gas, the mine operator would notify MSHA. These existing requirements are retained in the proposed rule.

Category VI would apply to all mines in which the presence of methane gas has not been established and which are not included in another category. If MSHA or the mine operator find that an outburst, blowout, or ignition of methane gas has occurred in any Category VI mine, the other party would be notified immediately, as proposed under standard § 57.30004. This notification is in addition to the immediate notification requirements under existing 30 CFR Part 50. In the event methane gas is detected in these mines, it would be necessary to take immediate action to protect miners. The proposed standards are action level standards that describe the actions to be taken in the event different levels of methane gas are detected and would apply to levels of 0.5, 1.0 and 2.0 percent or more. There are no proposed sampling requirements for Category VI mines. MSHA has a policy of sampling for methane gas during underground inspections. This policy would be continued.

In summary, the proposal establishes five categories of methane presence or potential. Category I would apply to mines with combustible ore which continuously emanate or have the continuous presence of methane, have the potential for continuous emanation or presence of methane, or have dust containing volatile matter. Deep and outcrop oil shale mines have characteristics which suggest placement in Subcategories I–A and I–B, respectively. Mines in Subcategory I–A would have experienced methane gas, and mines in Subcategory I–B would have the potential for methane gas.

Gilsonite mines have characteristics which suggest placement into Subcategory I–C because of the combustible ore, the actual or potential presence of methane gas, and the volatile dust.

Petroleum mines recover a liquid hydrocarbon product and suggest placement into Category V. Subcategory V–A would apply to those petroleum mines where there is a presence of methane gas. These mines operate in, or drill into, an oil reservoir. Blowouts are known to be the source of large volumes of methane gas and other gases entering the mine. Subcategory V–B would apply to those petroleum mines that have the potential for both methane emissions and blowouts. These mines operate outside and drill into an oil reservoir.

Domal salt mines that have experienced an outburst or that have the potential for an outburst would suggest placement into Category II. If a domal salt mine has an outburst, or has a history of outbursts, it would be placed into Subcategory II–A. Outbursts have caused large amounts of methane to enter the mine after a violent release of the gas under pressure. Domal salt mines with the potential for outbursts would be placed into Subcategory II–B.

Categories III and IV would apply to mines with noncombustible ores. They would have either continuously experienced methane or had intermittent liberation of explosives mixtures of methane (Category III

mines), or have had an intermittent release of nonexplosive mixtures of methane (Category IV mines). Examples of minerals mined in Category III are trona, uranium and potash. Category IV mines extract potash, bedded salt, domal salt without the potential for outbursts, limestone, and copper.

Under the existing standard, if a mine ever had 0.25% or more of methane gas in its mine atmosphere, it is automatically classified as gassy. This would not happen under the proposed category system. Should a mine in Category VI, for example, find 0.25% or more of methane gas, or have an ignition, outburst or blowout, the Administrator would initiate an investigation of the occurrence. The investigation would evaluate the source, nature and extent of the occurrence, along with analysis of the physical conditions, geology of the mine and the geological area in which the mine is located. Consideration would be given to determine if the gas was isolated, continuous, intermittent, or could reoccur. Only after completion of the investigation would a written determination with findings and category placement be made. The mine operator or representative of the miners would have the right to appeal the Administrator's decision, and to have a hearing before an administrative law judge. The administrative law judge's decision may be reviewed by the Secretary, and the mine operator or representative of the miners may obtain judicial review of the Secretary's decision.

Section 57.30004 Placement or change in placement, notice and investigation.

This is a new proposal, and appeared as draft proposal 58.21–3. The draft proposal would have required notice to be given to MSHA by operators of Category I–B, II–B and V (preproposed Category IV mines) mines if specific levels of methane were detected or an outburst or an ignition occurred, or if 100 ppm or more of methane was detected anywhere in the main air return. The draft proposal would have required MSHA to conduct an investigation of the reported occurrence and the mine operator would have been required to comply with certain precautionary standards. Commenters generally agreed with the concepts of the draft proposal. However, they believed that the language implied that a category or subcategory placement change would almost always follow a reportable methane occurrence. Commenters also stated that the action levels triggering an investigation and those established for the precautionary standards were unnecessarily restrictive. They recommended 0.25 percent as being more practicable.

Commenters also stated that there was no provision for new mines and that the 100 ppm action level was too restrictive. Commenters questioned whether an outburst, as defined, could occur only in the specified categories. MSHA has revised the draft proposal and incorporated many of the suggestions.

It is not MSHA's intention to arbitrarily place a mine in a category or subcategory. The purpose of the Administrator's investigation is to determine if the methane occurrence warrants a change in mine categorization in order to assure the safety of miners. MSHA requests comments on whether a mine's category placement should be reviewed when the conditions that caused the initial placement no longer exist over a period of time.

The draft proposed action levels of 0.10 percent and the 100 ppm requirements have been deleted. The recommendation to use 0.25 percent would be used as the triggering mechanism for the Administrator's investigation. The proposal also contains a provision which permits MSHA to conduct an investigation upon receipt of the mine operator's notice of the opening or reopening of a mine.

The specific location for methane testing in Category IV mines has been clarified and revised to include boreholes as sources of emissions by defining the term "mine atmosphere." Precautionary-type standards have been incorporated in respective categories and subcategories with revised action levels for reporting, making ventilation changes, deenergizing electrical equipment, shutting off diesel equipment, and finally withdrawal from the area and from the mine if necessary.

Section 57.30005 Notice and appeal of placement or change in placement.

This is a new proposal and appeared as draft proposal 58.21–4. The draft proposal provided that mine operators and representatives of miners could obtain review of MSHA's notice of category or subcategory placement or change in placement by requesting a conference with the Administrator for Metal and Nonmetal Mine Safety and Health. The draft proposal further provided that after receipt of a decision by the Administrator following a conference, a mine operator or a representative of miners could petition the Assistant Secretary for Mine Safety and Health to review the Administrator's decision. Commenters opposed these proposals and any substitute language that would not provide for a hearing and appeal prior to the Agency's final decision. Commenters suggested that such a review procedure, including a hearing with cross-examination, is essential to assure that placement or change in placement decisions are considered impartially and with technical fairness.

Commenters stated that a review procedure similar to that currently provided for petitions for modification published in 30 CFR Part 44 should be adopted. MSHA agrees and has revised the placement review provisions to adopt procedures that are substantially the same as the provisions set forth in 30 CFR Part 44. Under the proposal, an administrative hearing would be conducted by a Department of Labor Administrative Law Judge in accordance with the rules of practice and procedure published in the 29 CFR Part 18. An initial decision by the Administrative Law Judge would become final unless discretionary review is taken by the Assistant Secretary or an appeal to the Assistant Secretary is filed by either the mine operator or the representative of the miners. The Assistant Secretary for Mine Safety and Health upon review or appeal will make the final decision. Only a decision by the Assistant Secretary will be subject to judicial review by the Federal Courts. Commenters also suggested that citations and orders received by mine operators concerning categorization should not be considered in determining category or subcategory placement unless such citations and orders are final. MSHA would consider citations and orders, as appropriate, and all other relevant data in making its determination. All factors considered by MSHA would be subject to review under the proposed provisions in this Section.

While an appeal is pending concerning initial placement, affected miners will be protected as follows:

(1) Where the mine has been previously classified as gassy under existing standards in Subpart T, the "existing" standard will continue to be applicable until placement is final;

(2) Where the mine has not been previously classified as gassy and is placed in one of the new Categories I through V, the mine will be subject to notice, ventilation, deenergization and withdrawal provisions of Category VI pending an appeal. These safety provisions would only apply in the event of a methane occurrence.

(3) Where a mine has not previously been classified gassy and is not

considered to have current gassy potential, the mine will be placed in Category VI. The notice, ventilation, deenergization, and withdrawal provisions of this Category would apply only in the event of a methane occurrence.

In addition to the above, the statutory enforcement provisions including imminent danger orders with immediate withdrawal from the affected area remain in effect independent of the standards, and would not be affected by the appeal procedures.

Section 57.21002 Mine classification.

This proposal would delete existing standard § 57.21002 which addresses detection of methane while dewatering mines or during other reclamation operations. The existing standard also specifies that the detection of methane during such operations could not be used to permanently classify a mine gassy. Dewatering is the process of removing water from a shaft or work area by pumping, drainage or evaporation. It is not a common occurrence in metal and nonmetal gassy mines. Methane gas encountered during dewatering may be caused by decaying timbers, or some other temporary condition.

The Agency does not consider this occurrence to be an emanation of methane gas. MSHA proposes to delete this standard since the provisions of the standard are covered by the proposed action level standards for each category and subcategory. Such standards require ventilation, testing, and includes withdrawal of methane exceeds certain levels.

Sections 57.31101, 57.32101, 57.33101, 57.34101, 57.36101, 57.37101 (Smoking and Open Flame), 57.38101, 57.39101 Smoking.

This proposal would revise existing standard 57.21010, and appeared as draft proposals 58.21–110, 58.21–210, 58.21–310, 58.21–410, 58.21–610, and 58.21–710. It would generally prohibit smoking and carrying smoking materials underground. It would also require the operator to institute a reasonable program to assure compliance by persons entering the mine. The word "reasonable", which was deleted in the draft proposal, has been retained. This proposal does not substantially change the existing standard. Smoking would be permitted in Subcategory II–B mines, but restricted in Subcategory I–B and Category IV mines.

Commenters suggested that smoking prohibition for Subcategory I–C mines was covered by former Standard § 57.4–1 (now § 57.4100) which allows smoking under certain circumstances. Due to the potential presence of methane and the explosive nature of the material mined, MSHA believes that smoking must be totally prohibited underground in Subcategory I–C mines, within 50 feet of the mine opening, and in surface milling facilities. Also, the requirement for a program to restrict carrying of smoking materials into or within 50 feet of a mine opening and into areas of the surface milling facilities would not be included in proposed standard § 57.4100.

Limitations on smoking and the use of open flame were incorporated into the proposal for Category IV mines. Commenters suggested alternate language and recommended minimum levels of methane for this proposed standard. MSHA revised this standard and would permit testing required by proposed standard § 57.37204 as meeting these requirements. However, the minimum methane level suggested was not incorporated. MSHA believes that smoking or open flame should not be permitted when any methane is present in the mine atmosphere of a Category IV mine.

Sections 57.31102, 57.33102, 57.34102, 57.36102, 57.38102, and 57.39102 Open flames.

This proposal would combine and revise existing standards §§ 57.21011, 57.21012, and 57.21013; and appeared as draft proposals §§ 58.21–111, 58.21–311, and 58.21–611. It would prohibit use of open flame underground except for welding, cutting, and other maintenance operations. Such maintenance operations may be performed in other than fresh air only if tests for methane are conducted before and during the operation. Testing is to be done either by monitors provided on face equipment, or by persons at the work site at intervals not to exceed 5 minutes. In the draft proposal, the sampling interval was 10 minutes. However, the proposed standard would reduce the interval to 5 minutes. Methane gas moves from place to place and sampling at 5 minute intervals is considered to be reasonable and appropriate during such maintenance operations. A shorter time interval would be impractical and a period of 10 to 20 minutes may allow dangerous accumulations of methane gas. If major maintenance work involving cutting and welding for a long duration is necessary, MSHA recommends that the equipment be moved into fresh air for repairs. Fresh air is air that has not been contaminated by methane and other gases. The purpose of this proposed standard is to permit immediate maintenance-type repairs. The Agency would expect that equipment requiring major repairs be moved to a safe location. One commenter suggested that the preproposal draft test interval of 10 minutes for Category III mines would allow cutting and welding at the face, which would eliminate or reduce the protection afforded by the existing standards. However, existing standard § 57.21011 prohibits the use of open flame in other than fresh air except for welding and cutting. The existing standards allow welding and cutting at the face with continuous testing for methane during such operations. Continuous testing required by existing standard § 57.21012 was considered impractical by some commenters, and certain hand-held instruments are not capable of continuous testing. MSHA agrees.

Commenters suggested that continuous methane monitors installed at work sites or on mining equipment should be allowed in lieu of manual testing. MSHA agrees and believes that such intruments would provide equivalent safety for miners, and appropriate wording has been incorporated into the proposal.

The proposed requirements for Subcategory I–C mines prohibit all open flame underground and provide a restriction of 50 feet from the mine opening for welding and cutting unless all persons are out of the mine and the mine opening is covered. Commenters suggested word changes and suggested that wet brattice be used over a substantial material to cover the mine opening and to prevent sparks from entering the mine opening. These suggestions have been incorporated only into the standard for Subcategory I–C mines.

The limitation of 1.0 percent methane as prescribed by standard existing § 57.21013 is retained except for Subcategory I–C and II–A mines. Methane levels were not standardized because the degree of hazard and contributing factors are different within categories and subcategories. A provision for igniting underground retorts was incorporated for Subcategory I–A and I–B mines.

Section 57.33103 Dust containing volatile matter.

This is a new proposed standard, and appeared as draft proposal 58.21–399. It requires dust control measures that will effectively eliminate the accumulation of explosive quantities of dust containing volatile matter in Subcategory I–C mines.

Commenters stated that an explosive amount of dust is not defined and that

enforcement of the standard would be subjective. MSHA has revised the standard for clarity. Explosive amounts of dust would vary from mine-to-mine and even day-to-day. Explosive quantities are normally dependent upon variables such as particle size, concentration and temperatures. However, due to the extreme volatility of dust in this subcategory of mines, MSHA considers that an accumulation of any visible amount of dust would be a potential hazard in view of past explosions that have occurred in gilsonite mills. Any accumulation that is not controlled or immediately eliminated presents a potential danger of disasterous consequences.

Sections 57.31201, 57.32201, 57.33201, 57.34201, 57.35201, 57.36201, 57.37201, 57.38201, and 57.39201 Main fans.

This proposal would revise existing standard § 57.21020, and appeared as draft proposals §§ 58.21–120, 58.21–220, 58.21–320, 58.21–420, 58.21–520, 58.21–620, and 58.21–720. It specifies the criteria for main fan installations. In the draft proposal, the Agency clarified the word "prompt" relative to fan reversal by specifying a 10-minute time limitation. Commenters stated that the fan reversal provision was unnecessary and requested that it be deleted. MSHA agrees and has deleted this provision since power leads can be reversed if necessary. Commenters also requested deleting the requirement that main fans be powered electrically. MSHA has changed the proposal to permit the use of either electric motors or internal combustion engines for driving main fans. Internal combustion engines may also be used for standby power.

Conditions for using internal combustion engines have been incorporated. The Agency believes that such conditions are necessary to provide basic protection from fuel fires and engine exhaust emissions. Commenters requested an exemption from this proposed standard for Subcategory II–B mines. MSHA has incorporated a "grandfather" provision for existing mines in Subcategory II–B and Category IV so that the standard would apply to new mines which begin operation after the effective date of the final rule.

Commenters also requested clarification of the term "malfunction" in the stopped-fan provision. In response to comments, MSHA has revised this provision to require that an alarm be sounded when the main fan slows or stops. For the safety of the miners, the main fans must run continuously while miners are underground. Main fans are usually installed at remote locations, away from the miners. An automatic alarm would provide a warning to both underground and surface miners in the event of a main fan malfunction, and enable corrective action to be taken.

However, under certain circumstances (based on the configuration of the mine or the mining method), the sounds of the main fan may be heard, permitting the miners to determine if the fan slows or stops. This situation is generally characteristic of gilsonite mines. Typically, these mines are small operations with few employees. Therefore, Subcategory I–C mines would not have to conform to the alarm requirement, unless the miners underground could not hear the operation of the main fan. Commenters on Subcategory I–C mines stated that an automatic warning device is not necessary when a main fan slows or stops because persons in the mine can hear the system at all times. MSHA agrees and has specified that where the fan system cannot be heard at all times, an alarm shall be provided. They also requested that the mine production air-lift system which is unique to these mines be considered the main fan and ventilation system. Under the proposal, this will be permitted if the system complies with all applicable main fan standards.

Commenters requested deletion of the requirement for static conducting drive belts and fan blades, and for nonsparking materials in fan blades. MSHA believes that such requirements are necessary and has identified the fan blade components that must be nonsparking. Reference to electrical components exposed to forward and reverse airstreams has been retained because there is no assurance that a given fan will always be operated blowing.

Commenters requested that the requirement that main fans be installed on the surface in Category II mines be applied only to new mines. MSHA has incorporated this provision for Subcategory II–B and Category IV mines. However, the Agency believes that main fans must be installed on the surface in Subcategory II–A mines since these mines would have experienced an outburst. An outburst or an explosion following an outburst could severely damage or ruin the underground main fan which would destroy ventilation for the survivors and jeopardize rescue and recovery workers.

A requirement for methane monitors on main exhaust fans was incorporated for Subcategory I–A and I–B mines because of the potential quantities of methane that could be released during blasting.

Sections 57.31202, 57.33202 (Main Fan Operation), 57.34202, 57.36202, 57.38202 Main fan operation and inspection.

This proposal would revise existing standard § 57.21021, and appeared as draft proposals §§ 58.21–121, 58.21–321, 58.21–421, and 58.21–621. It requires continuous operation of main fans while persons are underground, and also requires pressure-recording gages, daily inspection and certification. Revisions to the draft proposal include a suggestion by commenters to allow shut down of main fans while all persons are out of the mine as permitted by the existing standard. Provisions for maintenance, adjustments, and unplanned failures are omitted from the proposed standard as these exceptions are specifically addressed in other proposed standards within each category or subcategory.

Commenters suggested insertion of the words "while running" to the requirement for the daily inspection of main fans, which has been incorporated. Inspection of a stopped fan would not provide evidence of its operational performance. The suggestion for visual inspection has not been incorporated as the required inspection is not limited to what can be seen. Some malfunctions can be detected by odor or unusual sound. Inspections usually include taking manometer readings, checking amperage values, and looking for overheated bearings and belt slippage.

Under the proposal, gage charts and certifications would have to be retained for one year. In the preproposal draft, this aspect of the standard was applicable to Subcategory I–B mines, however, under this proposal it has been deleted at commenter's request since methane would not have been detected in these mines.

Commenters for Subcategory I–C mines suggested word changes to allow continuous operating of the fan while mining is in progress. MSHA has incorporated the suggested change by specifying continuous operation while ore production is in progress.

Sections 57.31203, 57.32202, 57.33203, 57.34203, 57.35207, 57.36203, 57.38203, and 57.39203 Separation of intake and return air.

This proposal would revise and combine existing standards §§ 57.21022 and 57.21023. It appeared as draft proposals §§ 58.21–122 and 58.21–123, 58.21–222 and 58.21–223, 58.21–322 and 58.21–323, 58.21–422 and 58.21–423, and 58.21–622 and 58.21–623. It requires separation of intake and return air

currents and provides temporary measures for air separation prior to completion of a second opening to the surface. The proposal has been clarified to reflect that air separation is required during and after development. MSHA has revised the proposal to be consistent with commenters recommendations concerning provisions to permit the use of ventilation tubing and a 250-foot limit for developmental work. These additional provisions establish specific safety measures to be followed during shaft, slope or drift development, yet allow some operational flexibility.

Commenters suggested that use of a flame-spread rating of 25 be applied to exposed surfaces instead of requiring that surfaces be noncombustible. MSHA has specified that concrete construction or its equivalent be used for partitions, and has incorporated the suggested flame spread rating for flexible ventilation tubing along with a limitation on the length of such tubing. The intent of such a limit is to require rigid tubing to be installed as development progresses. Commenters also suggested that noncombustible construction provisions apply only when single shafts are permanently used for main intake and return air current. Since fire hazards could exist whether the installation is permanent or temporary, the proposal does not reflect their suggestion. Commenters further stated that the draft proposal did not specify the types of ventilation required after two openings have been completed. MSHA agrees. This standard addresses separation of intake and return air. Specific requirements for ventilation and air flow are addressed by other ventilation and air quality standards. The requirements for Subcategory I–C mines are slightly different due to the unique mine configurations.

Sections 57.32203, 57.35213, 57.39213, and 57.40001 Actions at 0.25 percent methane.

This is a new proposed standard and appeared as draft proposal § 58.21–3. It requires mine operators to notify MSHA if 0.25 percent methane is detected in the mine atmosphere (2.0 percent for Category IV mines), and requires ventilation changes to dilute the methane. Commenters generally agreed to the action levels in the draft proposal with the exception of the 0.1 percent level for Category VI mines. In responses, MSHA has changed the level to 0.25 percent for Category VI mines. Appendix 2, "Action Levels and Standards Table," is provided as an aid in comparing and understanding action levels.

Mine ventilation is the primary means of controlling concentrations of methane, respirable dust and other airborne contaminants, and oxygen in the underground mine atmosphere. However, air flow can be suddenly disrupted for a variety of reasons, or a surge of methane gas may unexpectedly enter the mine. There could be a failure of the main fans or booster fans, a break in a seal, damage to a stopping, ground fall, outburst, blowout, or even a sudden drop in the barometer will affect mine ventilation. Since there can be breakdowns in air flow, a series of safeguards are provided. Requirements that designated actions occur at certain methane levels (action levels) are critical to an effective ventilation system. Action levels protect miners and prevent an ignition or explosion of methane gas. The explosive range for methane gas is from 5% to 15%. Since it is unsafe to work in a methane atmosphere without taking necessary precautions, the presence of methane in quantities below 5% alert miners of an increasing danger and the potential for an ignition or explosion of methane gas. The most dangerous areas would be at the faces, benches or unworked areas. Ore is disturbed at the faces and benches and methane is released into the mining environment. Unworked areas may conceal the presence of gas until it is suddenly released by drilling, cutting, or blasting. Based upon the category or subcategory of mine and the amount of methane gas found, or action level, a mine may be required to change or adjust its ventilation, deenergize or shut down its electrical and diesel equipment, or withdraw personnel from an affected area or the entire mine. Miners would not be allowed to return, or to energize equipment, until needed corrections have been made and the affected areas determined to be safe for reentry and resumption of mining.

The proposed action levels are based upon the lower explosive limit for methane gas of 5% and acceptable safety factors for each category or subcategory of mine. They have taken into consideration such factors as mine size, the manner, amount and frequency of methane emissions, the mining methods and cycles, the size of the mine openings, and the product mined. The 0.25% level is used as a threshold measure of methane. If this level is encountered in a Category VI mine, or a Subcategory I–B, II–B, and V–B mine, it must be reported to MSHA so that the Administrator may conduct an investigation of the occurrence to determine if category placement or change in placement is warranted. In other categories, this level would initiate a change in ventilation to correct the situation. The 0.25% level was initially used because it was the lowest concentration that could be measured using a flame safety lamp. Today, hand-held methanometers and methane monitors are capable of accurately measuring much lower levels. However, the flame safety lamps continue to be used as supplementary testing devices.

Sections 57.32206, 57.35216, 57.37207, 57.39216 and 57.40004 Actions at 2.0 percent methane.

This is a new proposed standard which appeared in the draft proposal as § 58.21–770, for Category IV mines only. In the proposal, this requirement is extended to all other categories. It requires all persons to be withdrawn from the mine in certain categories or subcategories when methane levels reach 2.0 percent and prohibits reentry until methane is reduced to less than 0.5 percent. MSHA believes that withdrawal of persons at 2.0 percent is necessary for safety in these mines due to the absence of permissible equipment and the lack of comparable ventilation requirements proposed for other mines where methane is an established hazard.

The draft proposal required that persons be withdrawn from the mine and MSHA be immediately notified whenever 2.0 percent or more methane is present in the mine. Commenters generally supported the preproposal draft, however, they recommended that it be clarified. Commenters questioned the logic of miners remaining in the mine until methane levels reach 2.0 percent but not allowing them to return until it was reduced to 0.5 percent. Commenters also suggested deleting this requirement stating that it was a duplication of draft proposal § 58.21–3(a)(1)(c).

In the proposal, MSHA has changed the language of this standard for clarity. However, the withdrawal and reentry methane levels have not been changed. Proposed standard § 57.37206 requires withdrawal from the working place at 1.0 percent methane and prohibits return until methane is reduced to less than 0.5 percent. If methane levels cannot be immediately reduced, or if initial detection indicates 2.0 percent or more, then everyone must be removed from the mine. Since other standards in this category do not allow personnel in the working place until methane levels are reduced to less than 0.5 percent, allowing them back into the mine (but not into the working places) at between 1.0 percent and 2.0 percent levels would

be unnecessary and could be potentially dangerous.

Sections 57.31205, 57.33205, 57.34205, 57.36205, and 57.38205 Main ventilation failure.

This proposal would revise existing standard 57.21024, and appeared as draft proposals 58.21–124, 57.21–324, 57.21–424, and 57.21–624. It prescribes actions to be taken when main fans stop or other main ventilation failures occur, and allows a period of time for corrective action before withdrawal is required. Commenters suggested a revision that essentially would require action only after methane concentrations reached or exceeded 1.0 percent. This suggestion would allow continued production after ventilation has stopped, and in a section after methane has been found. Further, the concentrations could reach or exceed 1.0 percent in one or more headings. MSHA believes that such a revision would not provide time for withdrawal of persons from the mine due to the potential for a rapid rise of methane in the mine atmosphere. MSHA believes that miners should not be kept underground without ventilation in a potentially gassy environment beyond a 30-minute time period.

Commenters suggested that a 1.0 percent action level be standardized for all categories. MSHA does not believe that standardization of action levels is appropriate because the degree of methane conditions and hazards are different for the various categories of mines. In the preproposal draft, the time allowed for a ventilation interruption was 15 minutes. However, in the proposal it has been changed to 30 minutes to allow additional time to determine the cause and to make repairs. Commenters suggested omitting the time allowed for restoring ventilation in preference to a 1.0 percent action level. MSHA has retained the 30-minute time allowance for momentary power failures and other brief interruptions of ventilation without requiring withdrawal of miners. If after 30 minutes ventilation cannot be restored, it is essential to safety that persons be promptly withdrawn from the mine.

Commenters stated that the draft proposal would mandate a standby fan for each main fan. The provision, retained in the proposal, would permit the use of standby fans if such fans deliver equivalent ventilation.

Commenters also recommended that the term "competent person" be retained in the proposed standard in lieu of the phrase "a person designated by the mine operator." The reason given was that "competent person" is defined in § 57.2 and is familiar to the mining industry. MSHA agrees and has proposed a revised definition. Commenters also suggested that the requirements for main fan failure should be the same as those for main ventilation failure. MSHA agrees and has combined both provisions.

Since some work would be permitted in Subcategory I–C mines when the main fan is shut down, the proposed methane level of 0.5 percent is necessary due to potential fluctuation in natural ventilation. Subcategory I–C commenters suggested that a failure of the main fan does not present a significant hazard because certain dust samples collected by MSHA in these mines have indicated one-thousandth of an explosive concentration. However, these dust concentrations were respirable samples collected on a time-weighted average and do not reflect the amount of dust that might be suspended in the air at any given moment or place.

Section 57.21025 Failure of mine ventilation.

MSHA proposes to delete existing § 57.21025 for all categories. It appeared as draft proposals §§ 58.21–125, 58.21–225, 58.21–325, 58.21–425, and 58.21–625, and prescribed actions to be taken in the event of ventilation failures other than main fan failures. Commenters recommended that mandated actions should be the same for this requirement as those in the standards for main ventilation failure. MSHA agrees and has combined this requirement into proposed standards described in the preceding section revising § 57.21024.

Sections 57.31207, 57.33207, 57.34207, 57.36207, and 57.38207 Reentry after shutdown of main fans.

This proposal would revise existing standard § 57.21027, and appeared as draft proposals §§ 58.21–127, 58.21–227, 58.21–327, 58.21–427, 58.21–627. It prescribes testing procedures prior to reentry of personnel following main fan shutdown. Commenters recommended changes in language and the establishment of a methane level consistent with other ventilation standards. These recommendations are generally incorporated into the proposal.

A 30-minute time period prior to reentry has been added to allow time for the ventilation system to become effective. MSHA considers this to be particularly important after the mine has been idle and unventilated for one or more weeks.

Commenters recommended that MSHA establish a limit on the number of persons who would be allowed to enter the mine for the purpose of compliance with this standard. MSHA considered this recommendation, but does not believe that a specific number would be appropriate for the variety of situations that could be encountered. However, the standard permits only those persons necessary to test for methane and to make ventilation changes underground until ventilation has been fully restored. The number of persons needed to perform these activities will vary from mine to mine. Commenters requested that the term "competent person" be retained. MSHA has done so and has proposed a revised definition for this term. In the draft proposal, this standard would have applied to Subcategory I–B and I–C mines, but in response to commenters, the proposal would not apply to these mines. Commenters stated that this requirement was inappropriate for Subcategory I–B and I–C mines.

Sections 57.31208, 57.32207, 57.34208, 57.36208, and 57.38208 Booster fans.

This proposal would revise and combine existing standards §§ 57.21028 and 57.21029, and appeared as draft proposals §§ 58.21–129, 58.21–229, 58.21–329, 58.21–429, and 58.21–629. It provides safety precautions for the use of booster fans. Some commenters did not believe that booster fans in fresh air needed to be permissible, since some other equipment in fresh air is not required to be permissible. However, other commenters supported the draft proposal. MSHA believes that all booster fans need to be permissible. Booster fans may be installed in such close proximity to the working areas, particularly in air splits, that they could be affected by intrusions of methane. Recirculation and disruptions in the normal flow of air could also cause intrusions of methane.

MSHA has revised the provision in the draft proposal that implied that an air lock was required if passage through the bulkhead was necessary "when the fan is running." This was to clarify that the operating fan is not a factor in determining the need for air locks. Under the proposal, if there is no need for passage through the bulkhead, there is no need for an air lock. The Agency also revised the draft proposal to allow interruption of operation of booster fans if positive air flow can be maintained in accordance with other ventilation standards. The provision for a reversing requirement has been deleted to correspond with the same revision for main fans. Commenters were concerned that the automatic warning requirement for a fan system malfunction was not

clear. This requirement has been clarified in the proposed standard.

Section 57.33208 In-line filters.

This is a new proposed standard that was not included in the draft proposal. It requires that filters be installed on air-lift fan systems in Subcategory I–C mines to prevent an explosive amount of dust from being drawn through the fan. Such filters are currently in use in these mines and are considered a necessary precaution to prevent dust explosions within air-lift systems.

Sections 57.31209, 57.33209, 57.34209, 57.36209, and 57.38209 Auxiliary fans.

This proposal would revise existing standard 57.21030, and appeared as draft proposals §§ 58.21–130, 58.21–230, 58.21–330, 58.21–430, and 58.21–630. It provides safety precautions for the use of auxiliary fans. Commenters suggested alternate language which has been incorporated into the proposal. In response to comments the proposal has been revised to include diffuser fans.

Section 57.21031 Auxiliary fan inspection.

This proposal would delete existing standard § 57.21031, and was included in the draft proposal. The existing standard requires auxiliary fans to be inspected at least twice each shift. Some commenters suggested that the existing inspection requirement should be retained. However, MSHA believes that inspection of auxiliary fans twice each shift is unnecessary because air flow and air quality must be maintained in accordance with other ventilation standards. Accordingly, standard § 57.21031 is proposed to be deleted.

Section 57.31210, 57.33210, 57.36210, and 57.38210 Minimum air flow.

This proposal would revise and combine existing standards §§ 57.21033 and 57.21034, and appeared as draft proposals §§ 58.21–134, 58.21–234, 58.21–334, and 58.21–634. It requires a minimum flow of air at specific locations in the mine. All comments supported the draft proposal. MSHA has added a provision in the proposal, which requires withdrawal of personnel when minimum air quantities cannot be maintained. This provision is necessary because precautionary measures in other standards pertaining to partial ventilation failures would be deleted in the proposal. Minimum air flow proposals take into consideration the different mine types and configurations. In the draft proposal, this requirement was applicable to Subcategory I–B mines, but is now proposed to be deleted at commenters request, since methane would not have been detected in these mines.

Mine ventilation is the primary means used in underground mines to control airborne contaminants including methane gas. Minimum air flow quantities for ventilation have been proposed to assure control of methane in the mine atmosphere under operating conditions. However, such quantities are not always effective, for example, during interruptions or stoppage of air flow due to events such as damage to overcasts, curtain walls or ventilation doors, and roof falls or floor heaves. In addition, during mine advancement, a ground fault or a pocket of methane of such quantity to inundate all or part of the mine atmosphere could be encountered. In these situations, methane emissions can quickly approach explosive levels thereby endangering the lives of all persons underground. The proposed action level standards require specific corrective actions at certain levels of methane gas in the mine atmosphere. Since methane gas is odorless and colorless, methane monitors are needed on some equipment and mine-wide monitoring systems are necessary in certain categories to alert the miners of an otherwise undetected build-up of methane gas. Permissible equipment is required under some conditions to eliminate potential sources of ignition and to provide time to evacuate areas of the mine where methane is present.

Action level requirements specify corrective actions that must be initiated when mine ventilation cannot control methane emanating into the mine atmosphere.

Sections 57.31211, 57.32210, 57.33211, 57.34225, 57.36211, and 57.38211 Weekly testing.

This proposal would revise and combine existing standards §§ 57.21035, 57.21065, and 57.21066 and appeared as draft proposals §§58.21–135, 58.21–235, 58.21–335, 58.21–465, and 58.21–635. It requires testing for methane and carbon monoxide and requires air flow measurements (except Subcategory II–A mines) at specific locations in the mine at least once every 7 days. It also requires certification of such tests and measurements. Commenters suggested that the requirement for testing for carbon monoxide be deleted and questioned the need for such tests. MSHA believes that the presence of carbon monoxide can be indicative of a heat build-up caused by spontaneous combustion, and may provide advance warning of an undetected mine fire or a methane ignition. The potential for spontaneous combustion is greater with carbonaceous material. Commenters' suggestion that affected persons be informed if hazardous conditions are detected has been incorporated into the proposed rule.

Commenters recommended that the examinations include airborne contaminants. Control of airborne contaminants is covered by the Agency's air quality standards which are currently under review. Therefore, they are not included in this proposal. Commenters for Subcategory I–C mines recommended measurement of air by velocity instead of volume which has been incorporated into the proposed standard for these mines.

Section 57.31212, 57.33212, and 57.36212 Installation of support equipment.

This proposal would revise existing standards § 57.21036, and appeared as draft proposals §§ 58.21–136, 58.21–236, 58.21–336, and 58.21–635. They required that battery charging stations, transformer stations and other support equipment be well ventilated. Commenters suggested that this standard be deleted, stating that such requirement was not needed because the fire potential of battery charging stations is less than that of permissible mobile equipment. Other commenters suggested retention of the existing standard, and expressed concern that the small chargers for 12-volt and 24-volt batteries would be affected. Small single battery chargers are not covered by the proposed standard. The intent of this proposal is to require sufficient ventilation to prevent build-up of methane at any location where support equipment such as battery charging stations, transformers, compressors, and pumps are installed. Compressors and pumps are included in the proposal as such installations present similar potential hazards where methane might be present. Commenters also stated that the requirement for a separate split of air for such equipment was unnecessary. MSHA agrees and has deleted this provision.

In the preproposal, this requirement was applicable to Subcategory I–B mines but, in response to comments, the proposed requirement would not apply to these mines since methane has not been detected in these mines.

Sections 57.31213, 57.34210, 57.36213, and 57.38213 Changes in Ventilation.

This proposal would revise existing standard § 57.21038, and appeared as draft proposals §§ 58.21–138, 58.21–438, and 58.21–638. It provides safety precautions to be taken when changes are made that materially affect the main

air currents or splits. Commenters recommended language changes for clarity. MSHA generally agrees with these recommendations except for the reference to "intrinsically safe monitoring equipment." This was not adopted because monitoring equipment must be permissible. MSHA has added a requirement that all persons be out of the mine when ventilation changes are made that may affect the safety of persons in the mine.

Sections 57.31214, 57.32204, 57.33214, 57.34211, 57.35214, 57.36214, 57.37205, 57.38214, 57.39214 and 57.40002 Actions at 0.25, 0.5 and 1.0 percent methane.

This proposal would revise existing standard § 57.21039, and appeared as draft proposals §§ 58.21–139, 58.21–339, 58.21–439, 58.21–639, and 58.21–739. It requires that ventilation changes be made and that equipment be deenergized at specific methane levels in certain category and subcategory mines. Commenters suggested changes to the methane testing method and also suggested removal of diesel equipment rather than deenergization. The testing method suggestion is discussed under proposed § 57.30003. MSHA believes that diesel equipment must be deenergized or removed when methane is encountered at levels specified. Immediately shutting off diesel equipment is the safest method of eliminating a source of ignition when methane is encountered. However, the proposal would permit diesel equipment to be promptly removed in some categories and subcategories. Reference to electrical and diesel equipment was omitted for Subcategory I–C mines because this equipment is currently not used underground in these mines except for electric submersible sump pumps.

Sections 57.31215, 57.32205, 57.33215, 57.34212, 57.35215, 57.36215, 57–37206, 57.38215, 57.39215, 57.40003 Actions at 0.5, 1.0, 1.5, 2.0, and 2.5 percent methane.

This proposal would revise existing standard § 57.21040, and appeared as draft proposals §§ 58.21–140, 58.21–340, 58.21–440, 58.21–640, and 58.21–740. It specifies withdrawal actions to be taken when specific levels of methane are present in the mine atmosphere. Commenters indicated general acceptance of the preproposal but suggested higher action levels and changes in the methane testing method. The testing method is discussed under proposed § 57.30003. MSHA has retained the action levels of the draft proposal because the Agency believes they are necessary to assure adequate protection for miners.

Sections 57.31216, 57.34213, 57.36216, and 57.38216 Air passing abandoned or unsealed areas.

This proposal would revise and combine existing standards §§ 57.21041, and 57.21042 and appeared as draft proposals §§ 58.21–141, 58.21–341, 58.21–441, and 58.21–641. It would establish methane limits for air that has passed by or through abandoned or unsealed areas used to ventilate working places. Commenters suggested that the draft proposal be clarified and stated that all air used for ventilation would be affected regardless of the source. MSHA agrees and has changed the draft proposal. Unsealed abandoned areas and other inaccessible areas are known sources of methane. If air passing by or through such areas contains 0.25 percent or more methane, it cannot be used for ventilation because the concentration could increase due to progressive natural condition changes that occur during mining. The specific requirement for carbon monoxide testing was deleted from the draft proposal because it would be included in the proposed weekly testing standards.

In the draft proposal, this standard was applicable to Subcategory I–C mines, however, it has been deleted because it is not considered applicable to conditions and ventilating methods in these mines.

Sections 57.31217, 57.34214, 57.36217, and 57.38217 Abandoned areas.

This proposal would revise existing standard § 57.21043, and appeared as draft proposals §§ 58.21–143, 58.21–243, 58.21–343, 58.21–443, and 58.21–643. It prescribes safety measures for potential methane emissions from abandoned areas. Commenters supported the draft proposal. In the preproposal, this standard was applicable to Subcategory I–B and I–C mines, but has been deleted as inappropriate for these mines.

Sections 57.31218, 57.32213, 57.33218, 57.34215, 57.36218, 57.38218, and 57.39218 Seals and Stoppings.

This proposal would revise and combine existing standards §§ 57.21044, 57.21045 and 57.21053. It appeared as separate draft proposals §§ 58.21–44 and 58.21–153, 58.21–244, and 58.21–253, 58.21–344 and 58.21–353, 58.21–444 and 58.21–453, and 58.21–644 and 58.21–653. The proposal would address construction of seals, and those stoppings that separate main intake and main return airways. It also includes provisions to permit air sampling behind seals.

Some commenters opposed the use of the term "noncombustible" for seals and suggested a flame spread rating of 25 or less. MSHA believes that seals and main intake and return stoppings must be of substantial construction and that their resistance to fire must exceed a flame-spread rating of 25. While a flame-spread rating of 25 is acceptable for line brattice and ventilation tubing, seals and main air stoppings are so critical to the ventilation of the mine that they must have a greater fire resistance capability. Seals constructed of materials such as timber or foam-type blocks would be acceptable if all exposed surfaces were coated with one-inch of shotcrete, one-half inch of gunite, or a cement-like material of equivalent fire resistance. However, fire-retardant paint and urethane foam are not suitable coatings for these critical areas. In the preproposal, the seal requirement was applicable to Category I–B and I–C mines, however, it has been deleted as inappropriate for these mines.

Commenters suggested the use of foam-type materials for construction of stoppings in main intake and return entries. The proposal would permit the use of such materials provided that they meet the construction requirements and that areas surrounding seals or stoppings constructed of foam-type materials be kept free of sources of heat for a distance of a least 25 feet.

Commenters recommended retaining the word "solid" which is used in the existing standard, but was not included in the draft proposal. MSHA believes that the term "solid" construction would prohibit the use of foam-type blocks for construction of seals and stoppings, which are often more effective under certain ground conditions.

The word "permanent" which was used in the draft proposal has been deleted because the Agency does not consider it necessary since this standard applies only to stoppings used for separation of main intake and main return air streams. The word "main" has been added for clarity.

Section 57.21046 Crosscut intervals.

This proposal would delete existing standard § 57.21046, which appeared as draft proposals §§ 58.21–146, 58.21–246, 58.21–446, and 58.21–646. It required maximum intervals for crosscuts. MSHA believes that proposed revisions of minimum air flow and air quality requirements adequately address the provisions of this standard.

Sections 57.31220, 57.34217, 57.36220, and 57.38220 Line brattice and fan ducting.

This proposal would revise existing standard § 57.21048, and appeared as

draft proposals §§ 58.21–148, 58.21–248, 58.21–348, 58.21–448, and 58.21–648. It requires the use of line brattice or fans with ducting to assure positive air flow across the face. Commenters recommended deletion of the draft proposals, suggesting that other proposed standards requiring minimum air flow adequately addressed ventilation requirements at the face area. MSHA believes that line brattice, fans with ducting, or other equivalent means are necessary to provide positive air flow to the face. Therefore, the requirement has been retained in the proposal. Some commenters were concerned with single initial cuts off the solid. In response to these comments, the proposal would not require ducts or brattice when taking an initial cut, if air flow requirements in other ventilation standards are met. The proposal also includes an exception for pillar extraction. Commenters also requested an exception to this requirement if there was perceptible air flow at the face. MSHA believes that the source of perceptible air flow at the face would be from a fan or line brattice.

In the preproposal this standard was applicable to Subcategory I–B mines, but would not now apply to these mines.

Sections 57.31221, 57.32216, 57.33224, 57.34218, 57.36221, 57.38221, and 57.39221 Brattice cloth and ducting flame resistance.

This proposal would revise existing standard § 57.21049, and appeared as draft proposals §§ 58.21–149, 58.21–249, 58.21–449, and 58.21–649. It specifies a flame spread rating of 25 or less for brattice cloth and fan ducting. Commenters supported the draft proposal. A revised laboratory test to evaluate flame resistance of brattice and ducting is being developed by the MSHA Approval and Certification Center, and the new test requirements may be proposed by the Agency at a later date.

Section 57.21050 Damaged brattice.

This proposal would delete existing standard § 57.21050 which would have required damaged brattice to be repaired promptly. MSHA believes that the proposed revisions of the minimum air flow and air quality standards would adequately address the provisions of this standard. Commenters agreed with this proposed deletion.

Section 57.36222 Crosscuts before abandonment.

This proposal would retain the provisions of existing standard § 57.21051, and appeared as draft proposal § 58.21–651. It provides for crosscuts to be established before workings are abandoned in unsealed areas of the mine.

Section 57.21052 Room necks and stub entries.

The existing standard established a maximum depth for room necks and stub entries beyond the last open crosscut. MSHA proposed to delete this standard in the draft proposal because the protection would be covered by other proposed standards. Some commenters agreed while others, who were concerned about Category III mines, objected to the deletion. For Category III mines, proposed standards §§ 57.36211 and 57.36227 specifically require regular tests for methane, and proposed standards §§ 57.36214 and 57.36215 specify actions to be taken when methane is found. MSHA believes that these proposed standards provide appropriate measures for safety in room necks and stub entries, since these places must be regularly sampled regardless of depth.

Sections 57.36224 and 57.38224 Airlocks, overcasts, and undercasts.

This proposal would revise existing standard § 57.21055, and appeared as draft proposals §§ 58.21–155, 58.21–255, 58.21–455, and 58.21–655. It would require installation of air locks, overcasts, or undercasts so when persons or trips pass, they do not cause air flow interruptions. Commenters recommended deletion of this standard, stating that these hazards are adequately covered by existing standards §§ 57.5–20, 57.5–31, and 57.5–32 (now §§ 57.8520, 57.8531, and 57.8532 respectively). MSHA does not agree since standard § 57.8520 provides for submitting a ventilation plan only upon request of the District Manager. Standards §§ 57.8531 and 57.8532 address single ventilation doors and their construction. Interruptions of air currents in potentially gassy mines involve an additional hazard which dictates more stringent air flow control. MSHA proposes to delete this standard as inappropriate for Category I and Category II mines due to mine opening size and configuration.

Section 57.21056 Air Locks.

This proposal would delete existing standard § 57.21056 which requires that air locks be ventilated to prevent accumulations of methane. Commenters recommended a revision which would permit up to 1.25 percent methane inside air locks. MSHA did not adopt this recommendation because the proposed testing requirements and action level standards afford the same or greater protection.

Sections 57.36225, and 57.38225 Air doors.

This proposal would revise existing standard § 57.21057, and appeared as draft proposals §§ 58.21–157, 58.21–257, 58.21–457, and 58.21–657. It requires that ventilation doors which control the flow of air by being closed, shall be kept closed, except when persons or equipment are passing through. Doors would be marked to indicate whether they are to be kept closed or open for air flow control.

MSHA proposes to delete this requirement for Category I and Category II mines due to the unique configuration of these mines. In the preproposal draft, this standard also was applicable to Subcategory I–B mines. However, MSHA proposes to delete this requirement because methane has not been detected in these mines.

Sections 57.31226, 57.34222, 57.36226, and 57.38226 Overcast and undercast construction.

This proposal would revise existing standard § 57.21058, and appeared as draft proposals §§ 58.21–158, 58.21–258, 58.21–458, and 58.21–658. It addresses the construction and installation of overcasts and undercasts. Commenters suggested that airtight construction is impossible to achieve. MSHA agrees and has revised the requirements for this provision. Another suggestion was made to substitute a "flame spread-rating of 25" for the term "noncombustible." MSHA believes that the function and location of overcasts and undercasts are so critical that a burn-through or failure could have disastrous consequences and therefore the term "noncombustible" would be retained. Other commenters were concerned that the draft proposal revision would reduce the quality of overcast and undercast installations. The proposed definition of "substantial construction" would include all provisions contained in the existing standard.

Commenters also objected to the limitation on construction material imposed by the proposed definition of "noncombustible materials." They stated that products such as concrete block are susceptible to crushing due to ground movement which results in substantial air leakage and recirculation. MSHA has revised the language to permit the use of other materials such as timbers, if they are coated with shotcrete or gunite.

In the draft proposal this standard was applicable to Subcategory I–B mines. However, MSHA proposes to delete this requirement since methane has not been detected in these types of mines.

Sections 57.31227, 57.33221, 57.34223, 57.36227 and 57.38227 Preshift examination.

This proposal would revise existing standard § 57.21059, and appeared as draft proposals §§ 58.21–159, 58.21–359, 58.21–459, and 58.21–659. It requires preshift examinations for specific situations. Comments were varied reflecting different interpretations of the draft proposal. MSHA has revised the standard to clarify the intent. Mines must be examined following an idle period, working places examined prior to starting work on each shift, and all areas of the mine examined at least once during each 24-hour period of operation. MSHA considers preshift examinations to be a critical precautionary measure in gassy mines.

Commenters for Category II–A mines suggested that the requirement for a preshift examination prior to any person entering the mine should be eliminated because the mine-wide monitoring system would provide adequate safety. MSHA agrees, and the proposal would allow persons underground if the monitor system indicates that the mine is free of methane. However, all working places still need to be tested for methane before work is started. MSHA has also made this provision consistent with proposed standard 57.34601, blasting from the surface.

Section 57.21061 Dangerous conditions.

This proposal would delete existing standard § 57.21061 which would have specified that only qualified persons may enter areas where danger signs are posted. MSHA proposes to delete this standard because other proposed requirements for testing and action level standards adequately address these hazards. Commenters supported deletion of this standard.

Section 57.21062 Danger signs.

This proposal would delete existing standard § 57.21062, which would have prohibited the removal of danger signs until the hazard had been corrected. MSHA believes that hazards covered by this standard are adequately addressed in the proposed testing requirements and action level standards. Additionally, existing standard § 57.20011 requires barricading and posting areas where health or safety hazards exist. Commenters concurred with this proposed deletion.

Sections 57.31228, 57.32221, 57.33222, 57.34224, 57.35202, 57.36228, 57.37203, 57.38228, and 57.39228 Permissible testing devices.

This proposal would revise existing standard § 57.21064, and appeared as draft proposals §§ 58.21–164, 58.21–264, 58.21–364, 58.21–464, 58.21–564, 58.21–664, and 58.21–764. It requires that portable, self-contained methane detectors and other devices such as oxygen detectors and dust pumps be permissible. It would also establish specifications for these instruments. Provisions for calibration and maintenance of methane monitoring systems have been revised in response to commenters. Commenters objected to the recordkeeping requirement for calibration of instruments and believed that the restriction placed on the use of flame safety lamps was not written as a mandatory standard. MSHA agrees and has revised the proposal accordingly.

Commenters objected to the reference to "other combustible gases," stating that standards which are applicable to gassy mines should only refer to methane gas. MSHA believes that any combustible gas found in a mine requires that certain precautionary measures be taken to prevent an explosion.

Sections 57.31229, 57.32222, 57.33223, 57.34226, 57.35229, 57.36229, 57.37202, 57.38229, and 57.39229 Mechanical ventilation.

This proposal would revise existing standard § 57.21067, and appeared as draft proposals §§ 58.21–167, 58.21–267, 58.21–367, 58.21–467, 58.21–567, 58.21–667, and 58.21–767. It requires all mines to be ventilated mechanically. Commenters suggested deletion of this standard, stating that mechanical ventilation is implied by other standards. However, MSHA believes that such a requirement should be expressly stated because the alternative to mechanical ventilation is natural ventilation which is not always reliable for maintaining air quantity and direction of flow.

Section 57.36230 Air flow in intake and return courses.

This proposal would revise existing standard § 57.21066, and appeared as draft proposals §§ 58.21–168, 58.21–268, 58.21–368, and 58.21–668. It requires that air flow be maintained in intake and return air courses. In the draft proposal, this standard was applicable to Category I mines. However, it is proposed to be deleted because these requirements are inappropriate for such mines.

Sections 57.31230, 57.34227, 57.36231, and 57.38231 Doors on main fans.

This proposal would revise existing standard § 57.21069, and appeared as draft proposals §§ 58.21–169, 58.21–269, 58.21–469, and 58.21–669. It retained the language of the existing standard and required doors at main fan installations to close automatically following fan failure. Commenters generally supported the draft proposal. However, one commenter was concerned that self-closing doors are not compatible with main fan reversal. MSHA agrees and notes that this contention is correct in some existing installations. Therefore, the reversing provision has been deleted from the proposed main fan standard.

In the draft proposal this standard was applicable to Subcategory I–B and I–C mines; however, it is proposed to be deleted because the requirements are not applicable to these types of mines.

Sections 57.31301, 57.34301, 57.38301, and 57.39301 Mine-wide monitoring system.

This would be a new proposed standard and appeared as draft proposals §§ 58.21–172 and 58.21–472. It requires that a mine-wide monitoring system be installed to give warning and to deenergize power at specific methane concentrations. Commenters suggested some alternate provisions, but essentially agreed with the need for these systems.

Mine-wide monitoring systems are proposed for mines in Subcategories I–A, II–A, and V–A and V–B. This proposal does not replace the preshift examination proposal because the mine-wide system would be used only to provide surface recordings of underground methane concentrations after development, production, and bench round blasting. The preshift examiner on the on-coming shift would test the mine atmosphere in all working places before each shift and before persons enter the mine. Preshift examinations are not limited to methane, but involve testing of the mine atmosphere for air quality, respirable dust, oxygen, methane and other airborne contaminants. The examiner would also check the mine for physical problems including rock falls, changes in ventilation caused by damage to line brattice, ducting, stoppings, seals, overcasts and undercasts, and ventilation doors.

Commenters preferred that MSHA use the phrase "intrinsically safe monitors" in lieu of "permissible monitors." The

proposed standard has been changed to allow intrinsically safe or explosion-proof components or monitors. Commenters also believed that the location of the warning device is irrelevant so long as it can be seen or heard at all times. MSHA agrees and has incorporated this concept.

Paragraph (d) which requires calibration testing was moved to this proposed standard because commenters believed its placement in draft proposal § 58.21–464 was inappropriate. Commenters also recommended that the methane action level be changed to 1.0 percent in order to standardize levels for all categories of mines. They also questioned the accuracy of currently available monitoring equipment for measuring low levels of methane. MSHA's experience indicates that monitors are accurate within manufacturers' tolerances. Periodic calibration would be required in the proposed standard. Therefore, MSHA has retained the lower action levels instead of proposing to standardize action levels between mine categories because the conditions and degrees of hazard are different.

Commenters suggested that mine power be automatically deenergized when "power to the monitoring system is disrupted" instead of when the methane "monitoring system is not functioning properly." MSHA has incorporated this suggestion into the proposed standard along with a provision for a delay in deenergizing mine power due to nuisance tripping.

Commenters suggested alternate language to allow work to continue in fresh air areas while methane is being dissipated elsewhere in the mine. MSHA did not incorporate this suggestion and considers such a practice to be potentially dangerous because methane concentrations could exceed levels established by these proposed standards in any area of a mine, and the hazard would extend well beyond the immediate area where gas was detected.

Section 57.33301 Electrical grounding.

This would be a new proposed standard for Subcategory I–C mines and appeared as draft proposal § 58.21–373. It requires that all electrical systems providing power underground limit ground fault current to no more than 15 amperes, be provided with ground fault protection, and be continuously monitored for continuity of the ground circuit or tested for continuity at least every 30 days. The Agency received no comment on the draft proposal.

Section 57.33302 Pressure-relief vents.

This would be a new proposed standard for Subcategory I–C mines and appeared as draft proposal § 58.21–374. It requires pressure-relief vents on all dust handling and drying equipment and on facilities housing such equipment. Commenters stated that such a requirement is unnecessary, and does not specifically address explosions of flammable dusts. They also contended that the proposal was unclear as to what equipment would be affected by this standard. Commenters stated that past explosions involved electrical arcs or direct flame.

In the proposal MSHA has revised the standard to clarify that pressure-relief vents or other explosion-suppression systems are necessary for all equipment used for handling and processing volatile dusts and on all facilities housing such equipment. MSHA believes that these requirements are necessary because of the volatility of the dust involved and the past history of explosions in these mills and facilities.

Commenters recommended the use of fire suppression systems in lieu of vents. MSHA has incorporated this suggestion into the proposed standard as an alternate means of compliance.

Sections 57.33303 Jacketed and shielded cables, and 57.34302 Jacketed cables.

These are new proposed standards and appeared as draft proposals §§ 58.21–375 and 58.21–475. Proposed standard § 57.33303 for Subcategory I–C mines requires jacketed cables with grounded shielding around each conductor which is in contact with the ground conductors. Commenters contended that such requirements are unnecessary for fixed cable installations not subjected to damage through handling or contact with rough ground. They also suggested excluding submersible pumps from this requirement.

MSHA intends this standard to be applied to equipment such as submersible pumps. Power cables for these pumps are often installed in pipes, which might lack strain clamps. Also, individual conductor shields that extend all the way to the pump motor are sometimes not sufficient. Shields around each conductor will minimize arcing and provide a better path to ground should a ground fault occur. Such shields would also signal the circuit breaker to trip in accordance with proposed standard § 57.33301.

Proposed standard § 57.34302 for Subcategory II–A mines would be a new standard and requires that only jacketed cables be used to provide power to certain mining equipment.

Section 57.21077 Trolley wires.

This proposal would delete existing standard § 57.21077. A revision of the standard appeared as draft proposal §§ 58.21–177 and 58.21–677. The draft proposal did not significantly change the requirements of the existing standard, which specifies that trolley wires cannot extend into the last open crosscut or within 150 feet of pillar recovery workings. Commenters suggested deletion of all requirements of the existing standard except the draft proposal provision that trolley wires be installed in intake air. MSHA believes that the standard should be deleted as being inapplicable because any hazards involving trolley wires would be controlled by proposed testing, minimum air flow, and action level standards.

Sections 57.31303, 57.33304, 57.34303, 57.36302, and 57.38302 Permissible equipment.

This proposal would revise and combine existing standards §§ 57.21076 and 57.21078, and appeared as draft proposals §§ 58.21–178, 58.21–378, 58.21–478, and 58.21–678. It requires that only permissible equipment be used at the face. An exception is provided for loaders and trucks equipped with methane monitors in Subcategory II–A mines. The draft proposal required testing for methane and deenergizing diesel equipment at 0.25 percent methane levels. Commenters contended that it is safer to move diesel-powered equipment to fresh air than to deenergize it in place when methane is detected. In the proposal, MSHA has included action levels for each category and subcategory to require deenergizing or immediate withdrawal of diesel equipment. The proposal to remove diesel equipment from an area where methane has been detected is in response to those situations where equipment cannot be safely deenergized, such as on a grade or in a location where the equipment would block or obstruct a passageway.

Commenters suggested a 1.0 percent methane action level for this standard due to perceived problems of accuracy and maintenance with methane monitors on mobile equipment in a salt or corrosive atmosphere. MSHA's experience with the performance of methane detectors is that they are capable of performing accurately within the manufacturer's specification if they are maintained and calibrated according to the manufacturers' recommendations.

MSHA believes that the detection of methane at the proposed action levels is sufficient cause to immediately remove and deenergize mobile equipment.

In the proposal, MSHA has retained the permissibility requirement for such equipment. However, the proposal would allow nonpermissible stationary equipment to function without a methane monitor if the equipment is located in intake air or within 50 feet downstream of a mine-wide monitor sensor. This revision is in response to commenters' suggestions.

In order to eliminate potential methane ignition sources in Category III mines, the proposal would require that nonpermissible electrical and diesel-powered equipment be kept at least 150 feet from pillar recovery workings, longwall faces and shortwall faces. These mining systems have partly caved and poorly ventilated places (gobs). In these situations, methane may be forced out of the gob due to falling rock, and override the ventilation. A distance of 150 feet represents the maximum limit such a release of methane may be expected to travel when it is working against the ventilation system. This distance has been used in mining for approximately 40 years, and a review of MSHA's field data reveals that, for metal and nonmetal mines, the 150-foot distance appropriately addresses hazards in these areas. (See existing standard § 57.21077)

Commenters objected to the term "last open crosscut" and reasoned that it is not an appropriate term for Subcategory II-A mines. MSHA has deleted the term for Subcategory II-A mines, and has proposed a 100-foot limitation from the face for nonpermissible equipment in these mines. Commenters also objected to the draft proposal requirement for intake flame arrestors on diesel equipment. MSHA agrees and has proposed to delete this requirement.

Commenters recommended substituting the term "explosion-proof" for the term "permissible" throughout the categories. MSHA has retained the requirement that equipment used beyond the last open crosscut be permissible, except for specific equipment in Subcategory II-A mines. Permissible equipment would have to be approved under existing Agency permissibility requirements.

Sections 57.34304 and 57.38305 Distribution boxes.

This proposal would revise existing standard § 57.21079, and appeared as draft proposal § 58.21-479. It requires that distribution boxes containing short circuit protection for permissible equipment be explosion proof. Commenters recommended deleting this standard because the proposed permissibility standards adequately address the hazards. However, MSHA proposes to retain this standard since these distribution boxes are often located beyond the face or bench area. Proposed permissibility standards include only equipment used at the face or bench.

Sections 57.31305, 57.34305, 57.36303, 57.36303, and 57.39303 Methane monitors.

This proposal would revise existing standard § 57.21080, and appeared as draft proposals §§ 58.21-180, 58.21-380, 58.21-480, and 58.21-680. It requires methane monitors to be installed on specific mining equipment in each category and subcategory. Face drilling and undercutting machines were inadvertently included in the draft proposal for Category I and Category III mines; this equipment would be excluded in the proposal. Although some commenters recommended higher action levels for methane, MSHA has retained the levels specified in the draft proposal because they are necessary to assure protection of miners. Commenters also suggested that methane monitors automatically deenergize the equipment "should power to the monitor be disrupted" instead of when the monitor "malfunctions." MSHA has incorporated this recommendation.

Commenters expressed concern that mounting sensing units on the booms of certain machines would create maintenance problems. The requirement for positioning the sensors as close as practical to the working face should provide sufficient flexibility for locating the sensors in areas other than on the booms of face equipment. The intent of this provision is to assure that the sensors are positioned in a location where they are not easily damaged, yet close enough to detect methane released during operation of the equipment.

In the preproposal draft, the standard was applicable to Subcategory I-C mines, however, it has been deleted at commenters request because it is not applicable to equipment used in these mines.

Sections 57.38306 and 57.39306 Flow-control devices.

This is a new proposed standard that was not included in the draft proposal. It addresses the potential hazard of uncontrolled gases and flammable liquids entering the mine from boreholes drilled into an oil horizon in Category V mines. The control devices to be installed include but are not limited to packers, stuffing boxes, gas-water-oil separators, full-port valves, and standpipes.

Section 57.38307 Self-contained breathing apparatus.

This is a new proposed standard which was not presented as a requirement in the draft proposal. It requires self-contained breathing apparatus to be provided and strategically located in the mine. Strategic locations are those locations where the apparatus will be readily available to the miners when needed. They are considered necessary due to methane gas and the potential emission of hydrogen sulfide, carbon dioxide, and other harmful gases that may be encountered in a Subcategory V-A mine.

Sections 57.31401 and 57.32401 Underground retort plan.

This is a new proposed standard and appeared as draft proposals §§ 58.21-181 and 58.21-281. It would be applicable to Subcategory I-A and I-B oil shale mines and would require that an ignition and operation plan for underground retorts be submitted to the district manager for approval. Commenters suggested alternate language and suggested that an appeal procedure be included.

The use of underground retorts to extract shale oil and other carbonaceous material from oil shale by heat (fire) is in a state of development by the oil shale mining industry. Because underground retorts represent a unique technology involving highly technical processes, it would not be practical to specify detailed safety standards for uniform application to all operations. Mine operators have had to resort to the statutory variance procedure (petitions for modification under section 101(c) of the Mine Act) for standard § 57.4-58, (recently recodified as § 57.4161), which prohibits fires to be built underground, to make it relevant and feasible to individual mining operations. The revised standard continues the prohibition of fires underground. The proposed standard generally reflects the Agency's policy for granting petitions for modification for retorts, and such retorts have been operated under this concept. However, this plan standard would take precedence. MSHA proposes a plan-type standard and criteria for plan approval to deal with the hazards associated with underground retorting. A plan approach will provide both MSHA and the individual mining operator with needed flexibility in establishing and implementing safety requirements. The intention of the

proposed standard is to afford the mine operator with a timely and continuing opportunity to participate in the plan development, review and approval process. The proposed standard would provide a review by the Administrator for Metal and Nonmetal Mine Safety and Health. The Administrator will have flexibility in that a conference with the mine operator may be held or a factfinding hearing may be conducted in accordance with section 103(b) of the Mine Act. Upon notifying the mine operator of the findings and determination, the plan, as approved by the Administrator, would become the approved plan and the mine operator would be required to comply with all provisions of that plan.

Section 58.21-392 Blasting.

This was a new standard that appeared as draft proposal 58.21-392. It would have required either wetting down or rock dusting to prevent ignition of dust containing volatile matter prior to blasting in Subcategory I-C mines. This draft proposal has been deleted because the requirements are addressed by other blasting standards related to these mines.

Section 57.33701 Advance face boreholes.

This is a new proposed standard and appeared as draft proposal § 58.21-391. It requires drilling advance boreholes as mining approaches abandoned mines or abandoned workings. Commenters supported the draft proposal, but felt it should not be included in the explosive section of the index. MSHA agrees and has placed it under a separate heading.

Sections 57.31501, 57.32501, 57.33501, 57.34501, 57.36501, 57.37501, 57.38501, and 57.39501 Personal electric lamps.

This proposal would revise existing standard § 57.21090, and appeared as draft proposals §§ 58.21-190, 58.21-290, 58.21-390, 58.21-490, and 58.21-690. It requires that electric lamps used to provide personal illumination be permissible. Commenters suggested deleting references to specific permissibility standards. MSHA believes that such references clarify the intent of the standard. This requirement was inadvertently omitted from the preproposal draft for Category IV mines, but has been included in the proposal.

Sections 57.31601, 57.33603, 57.34601, 57.35601, and 57.38601 Blasting from the surface.

This is a new proposed standard and appeared as draft proposals §§ 58.21-193, 58.21-393, 58.21-493, and 58.21-593. It requires that blasting be done from the surface in Category II mines after everyone is out of the mine, and does not permit reentry until the mine-wide monitor indicates that the mine is free of methane. All places blasted would also be required to be tested for methane before work is started. It requires that vehicles used for transportation when conducting these tests be permissible. A minimum period of 30 minutes has been added before persons reenter the mine to allow for ventilation after blasting. Commenters stated that the mine-wide monitoring system should eliminate the need for manual testing before persons reenter the mine. MSHA agrees and has incorporated this change. However, the requirement to test each blast site prior to starting work is retained because the ventilation system might not have cleared all places of methane due to improper positioning or failure of an auxiliary fan or other problems associated with air movement in mines with large openings. The preproposal draft inadvertently included 1.0 percent action level for Subcategory II-B mines, which has been changed to 0.5 percent as intended.

Commenters for Subcategory I-A mines stated that blasting from the surface after everyone is out of the mine is unnecessary. MSHA believes that large volumes of methane would be released during blasting in Category I-A mines. When large volumes of gas are released, there is no safe place for miners underground. The potential presence of extremely high methane concentrations during mining of deep Subcategory I-A mines is a concern of the mining community. (See, Designing An Oil Shale Mine Ventilation System, by Floyd C. Bossard and Associates, Inc. presented at the Fall 1983 SME-AIME meeting at Salt Lake City, Utah). In addition, there is the explosive potential of oil shale dust. (See, Fire and Explosion Properties of Oil Shale presented during the Tenth Oil Shale Symposium Proceedings by J.K. Richmond and L.F. Miller, April 21-22, 1977, at the Colorado School of Mines). Further, a mining research contract report recommends that personnel should be on the surface if sudden bursts of methane into the mine atmosphere are anticipated when blasting in gassy metal and nonmetal mines. (See, Recommended Blasting Procedures, Calder and Workman, Inc., May 1983). Finally, a Bureau of Mines Report indicates a major gas problem in these mines and potential problems when blasting. (See, Methane Encountered At The Bureau of Mines Oil Shale Shaft, by Vinson, Cox, and Kissell, presented during the Twelfth Oil Shale Symposium Proceedings, at the Colorado School of Mines, April 1979). MSHA believes that blasting from the surface in Category I-A mines is essential to the safety of miners.

The proposed requirements of this standard for Category I-C mines are different in consideration of the unique mine type and configuration.

Generally, if the mine-wide monitoring system indicates the presence of methane in excess of 1% in an oil shale mine (§ 57.31601), or 0.5% in a domal salt mine (§ 57.34601), or 1% in a liquid petroleum mine (§ 57.38601), miners would not be permitted to reenter the mine and resume production until the mine was determined to be free of methane. Free of methane means free of measurable concentrations of methane. Methane detection instruments today are capable of detecting minute quantities of the gas with considerable accuracy, even to one-hundredth of one percent.

Sections 57.31602, 57.34602, and 57.38602 Secondary blasting.

This is a new proposed standard and appeared as draft proposals §§ 58.21-194, and 58.21-494. It requires testing for methane prior to secondary blasting. Commenters recommended acceptance of the standard, but suggested adding "competent person" and higher methane action levels. The word competent was added. However, MSHA believes the levels of methane as proposed are necessary to assure that ventilation is sufficient before secondary blasting is performed.

Sections 57.31603, 57.32601, 57.33604, 57.34603, 57.36601, and 57.306.3 Explosive materials and blasting units.

This proposal would revise and combine existing standards §§ 57.21905, 57.21096, and 57.21097 and appeared as draft proposals §§ 58.21-195, 58.21-295, 58.21-395, 58.21-495, and 58.21-695. The existing standards allow the use of either permissible explosives or nonpermissible explosives as permitted by the district manager in underground gassy mines. The proposal would delete and permissible explosives requirement and continue the current procedure for using explosive materials and blasting units at these mines. Explosives are highly dangerous and inherently hazardous during blasting activities in confined underground, gassy mining environments. The purpose for using permissible explosives is to prevent a flash from occurring during blasting and thereby to eliminate an ignition source for methane that is released into the mine atmosphere. The existing standard is being revised because permissible

explosives are not being used in underground gassy mines due to the failure of such explosives to provide satisfactory blasting capacity to fragment rock. Rather than apply a set of fixed blasting standards to all gassy mines, MSHA believes that the proposal would provide a flexible means of allowing safe conditions and explosive materials and blasting units for each affected mining operation.

Commenters suggested an exception for explosive materials which are currently permitted by the Agency. MSHA does not believe that it is necessary to have such an exception in the proposed standard since all permissions presently granted by the district manager will continue unless changes occur in the use, materials, or conditions of the affected mines.

Section 57.21098 Stemming.

The draft proposed revision of existing standard § 57.21098 appeared as § 58.21–698. It generally would have required noncombustible stemming in blast holes in Category III mines. Commenters supported the draft proposal. However, MSHA believes that the stemming provision is adequately covered by the proposed requirement for written permission for the use of explosive materials in the preceding section. Therefore, the Agency proposes to delete this standard.

Section 57.36603 Blasting on shift.

This proposal would revise and combine existing standards §§ 57.21099 and 57.21100, and appeared as draft proposal 58.21–699. It requires testing for methane before and after blasting in Category III mines, and prohibits blasting when 1.0 percent methane is present.

Commenters supported the draft proposal. MSHA has added the term "competent person" to the proposal. This term is defined and has been suggested by commenters for other standards in this Subpart.

Section 57.37204 Testing for methane.

This is a new proposed standard for Category IV mines and appeared as draft proposal § 58.21–721. It requires testing for methane at specific places in the mine before work is done. Some commenters felt that the draft proposal would have required testing in shops and other areas remote from the face, raise, and other areas where methane is not likely to occur. They also felt that each miner would be required to carry a methanometer. Alternate language was suggested. MSHA has revised the draft proposal. The proposed standard requires testing for methane at least once each shift prior to starting work at the face or raise area of the mine. A requirement for testing pressure-relief boreholes was also incorporated. Testing of unventilated areas has been deleted because the Agency believes that testing prior to starting work would cover such situations.

Commenters also suggested alternate test procedures which incorporated sampling intervals. They also requested that only hazardous concentrations of methane be considered, since methane encountered in some Category IV mines is rendered harmless by high percentages of nitrogen gas. In many cases, methane encountered in these mines has been diluted with inert gases to render methane harmless. However, the presence of any methane in these mines must be recognized as a potential hazard, and some precautionary measures must be taken. MSHA believes that the requirement for testing is essential to safety in these mines. The suggestion for sampling intervals is addressed in proposed § 57.30004.

III. Public Hearing

MSHA intends to hold public hearings on these proposed rules in Rochester, New York; Salt Lake City, Utah; New Orleans, Louisiana; and Carlsbad, New Mexico. The Agency will announce specific dates and locations for the hearings in the **Federal Register.**

IV. Executive Order 12291 and Regulatory Flexibility Act

In accordance with Executive Order 12291, MSHA has prepared a preliminary cost estimate to identify potential costs and benefits associated with the proposed revisions to the Agency's standards for gassy metal and nonmetal mines. The Agency has incorporated these estimates into the initial regulatory flexibility analysis which is required under the Regulatory Flexibility Act. In this analysis which is summarized below, MSHA has determined that the proposed rule would not result in major cost increases nor have an effect of $100,000,000 or more annually on the economy. Since the rule does not meet the criteria for a major rule, a Regulatory Impact Analysis is not necessary.

The Regulatory Flexibility Act requires that, in developing regulatory proposals, agencies evaluate and include, wherever possible, compliance alternatives that minimize any adverse impact on small business. Several proposed standards provide alternatives for compliance. A primary benefit of this proposal is the protection that the standard would provide to persons who could be endangered by explosive atmospheres and hazards associated with gassy mines. Over the past several years, explosions in gassy mines have resulted in multiple fatalities and serious injuries. Eighteen people were killed and two injured in an explosion at a potash mine; an explosion of dust at a gilsonite mine was caused by electric arcing from an electrical box resulting in eight fatalities and three injuries; methane explosions at two limestone mines resulted in two injuries each; and an explosion at a salt mine killed five miners.

The proposal would also clarify compliance responsibilities and adopt standards that are based upon the degree of hazards and, when possible, performance oriented. The proposed rule should benefit both large and small underground gassy mining operations. The proposed rule maximizes flexibility since it establishes safety objectives without limiting the means to achieve it. MSHA anticipates that fewer mines will need to petition the agency for modification of a standard (variance) because of the revision of the standards, to include a category system and to reflect some new technology.

For purposes of the Regulatory Flexibility Act, MSHA has defined small business entities as mining operations with fewer than 20 employees. The proposed rule could affect approximately 42 mines. MSHA estimates that all gassy mines, except those in proposed Category I–C, have more than 250 employees. The estimated 15 mines in Category I–C employ fewer than 20 miners each; however, 14 of these 15 mines are controlled by large corporations.

In the proposal, MSHA has reorganized, updated, and clarified the existing gassy mine standards. The Agency also proposes to consolidate related standards and to keep recordkeeping provisions to a minimum without diminishing miner safety. There are 62 existing standards, each one applicable to mines deemed to be gassy. MSHA's proposed rule would reduce the total standards applicable to each mine as follows:

Category or subcategory	Standards
I–A	34
I–B	17
I–C	29
II–A	33
II–B	10
III	35
IV	10
V–A	36
V–B	17
VI	5

In the initial regulatory flexibility analysis, MSHA has compared estimated costs of the proposed standards with corresponding estimated costs of the existing standards. MSHA has summarized below the standards which represent the major components of the total cost. A copy of the full analysis is available upon request.

The total one-time cost for industry compliance with the existing standards is estimated to be approximately $178.6 million, and the annual recurring cost is estimated to be approximately $22.6 million. The total one-time cost for the proposed rule is estimated to be approximately $95.6 million, and the annual recurring cost is estimated to be approximately $13.1 million. The proposed rule, therefore, represents an estimated reduction in capital costs of $83 million and an estimated recurring cost reduction of $9.5 million.

Of the total combined costs for the existing and proposed rules, the principal cost is from existing standard § 57.21078 (proposed standards §§57.31303, 57.33304, 57.34303, 57.36302 and 57.38302) which requires the use of permissible equipment in underground gassy miles. The estimated one-time cost for the existing standard is approximately $167 million, and the estimated recurring cost for the existing standard is approximately $21 million. The estimated one-time cost for the proposed standard is $92 million and the estimated recurring cost is $12 million. The differential is due to changes for permissibility in the proposed standards.

Existing standard § 57.21020 (proposed standards, §§ 57.31201, 57.32201, 57.33201, 57.34201, 57.35201, 57.33601, 57.37201, 57.38201, and 57.39201) applies to main fan installations. The estimated one-time cost for the existing standard is $1.8 million, and the estimated recurring cost is $187,000. The estimated one-time cost for the proposed standard is $150,000, and the estimated recurring cost for the proposed standard is $15,000. The differential is due to the proposal that only new Category IV mines beginning operations after the effective date of the standard be required to install main fans on the surface.

Existing standard § 57.21023 (proposed standards §§ 57.31203, 57.32202, 57.33303, 57.34203, 57.35207, 57.36203, 57.38203, and 57.39203) applies to separation of intake and return air. The estimated one-time cost for the existing standard is $816,000, and the estimated recurring cost is $20,000. The estimated one-time cost and the estimated recurring cost for the proposed standard is the same because there is no change in requirements.

Existing standard § 57.21029 (proposed standards §§ 57.31208, 57.32207, 57.34208, 57.36208, and 57.38208) applies to booster fans. The estimated one-time cost for the existing standard is § 248,000, and the estimated recurring cost is $25,000. There is no cost for the proposed standard because the requirement has been eliminated in Category IV mines which presently are the only mines using booster fans.

Existing standard § 57.21030 (proposed standards §§ 57.31209, 57.332209, 57.34209, 57.36209, and 57.38209) applies to auxiliary fans. The estimated one-time cost for the existing standard is $5.6 million, and the estimated recurring cost is $294,000. The estimated one-time cost for the proposed standard is $1.6 million and the estimated recurring cost for the proposed standard is $163,000. The differential is due to fewer mines that would be affected by the proposed standard.

Existing standard § 57.21035 (proposed standards §§ 57.31211, 57.32210, 57.33211, 57.34225, 57.36211 and 57.38211) requires weekly testing for air volume. The estimated one-time cost for the requirement in the existing standard $47,000, and the estimated recurring cost is $158,000. The estimated one-time cost for the proposed standard is $28,000, and the estimated recurring cost for the proposed standard is $90,000. The differential in cost is due to a reduction in large mines and an increase in small mines, resulting in a net reduction in equipment and labor costs associated with testing.

Existing standards § 57.21044 and 57.21053 (proposed standards §§ 57.31218, 57.32213, 57.33218, 57.34215, 57.36218, 57.38218, and 57.39218) apply to stoppings and seals. The estimated one-time cost for the existing standard is $960,000 and the estimated recurring cost is $960,000. The estimated one-time cost for the proposed standard is $725,000, and the estimated recurring cost for the proposed standard is $725,000. The differential is due to a change in construction materials that would be affected by the proposed standard.

Existing standard § 57.21059 (proposed standards §§ 57.31227, 57.33221, 57.34223, 57.36227, and 57.38227) applies to preshift examinations. The estimated one-time cost for the existing standard is $98,000, and the estimated recurring cost is $96,000. The estimated one-time cost for proposed standard is $100,000, and the estimated recurring cost for the proposed standard is $100,000. The differential is due to the additional mines that would be affected by the proposed standard.

Existing standard § 57.21069 (proposed standard §§ 57.31230, 57.34227, 57.36231, and 57.38231) applies to doors on main fans. The estimated one-time cost for the existing standard is $138,000, and the estimated recurring cost is $14,000. The estimated one-time cost for the proposed standerd is $48,000, and the estimated recurring cost is $5,000. The differential is due to a reduction in the number of mines to be affected by the proposed standard.

Existing standard § 57.21079 (proposed standard §§ 57.34304 and 57.38305) applies to permissible distribution boxes. The estimated one-time cost for the existing standard is $1.4 million, and the estimated recurring cost is $150,000. The estimated one-time cost for the proposed standard is $57,000, and the estimated recurring cost for the proposed standard is $6,000. The differential is due to fewer mines affected by the proposed standard.

Existing standard § 57.210080 (proposed standard §§ 57.31305, 57.34305, 57.36303, 57.38303, and 57.39303) applies to approved methane monitors on certain mobile equipment. The estimated one-time cost for the existing standard is $150,000, and the estimated recurring cost is $34,000. The estimated one-time cost for the proposed standard is $87,000, and the estimated recurring cost for the proposed standard is $17,000. The differential is due to the fact that fewer devices would be required under the proposed standard.

New proposed standards §§ 57.31301, 57.34301, 57.38301, and 57.39301 would apply to mine-wide montioring systems to record methane concentrations in the underground mine atmosphere. The estimated one-time cost of the proposed rule is $210,000, and the estimated recurring cost is $42,000.

V. Paperwork Reduction Act.

The proposed rule retains the current requirements for pressure-recording gage charts for main fans and applying for MSHA's permission to use explosive materials and blasting units in underground gassy metal and nonmetal mines. Proposed standard §§ 57.31202, 57.34202, 57.36202, and 57.38202 would require pressure recording gages and charts, and the charts would be replaced after completing one revolution. Main fans, including gages, would be inspected daily. Rather than continue keeping logs and signing and countersigning records of inspection, the proposed standard would require

certification of inspection to be made by signature and date. Proposed standard §§ 57.31603, 57.36201, 57.33604, 57.34603, 57.36601, and 57.33603 retains the current requirements that nine operators apply for and obtain approval to use explosive materials and blasting units. The approvals are issued on a nine-by-nine basis and may contain safeguards, in addition to those proposed by the mine operator, to protect the safety of the miners during blasting operations. Proposed standards §§ 57.31401 and 57.32401 include a new recordkeeping requirement for Subcategory I–A and IB mines (oil shale) that mine operators submit an underground retort plan for approval. The plan would provide site-specific safeguards and safety procedures for the underground areas affected by the retorts. The paperwork requirements contained in the proposed rule have been submitted to OMB for review under Section 3504(h) of the Paperwork Reduction Act. Comments on the proposed paperwork provisions should be sent directly to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for MSHA.

VI. Draft Information

The principal persons responsible for preparing this proposed rule are: William H. Donley, Metal and Nonmetal Mine Safety and Health; Claude N. Narramore, Metal and Nonmetal Mine Safety and Health; William E. Bruce, Safety and Health Technology; and Bernard R. McGuire, Office of the Solicitor, Department of Labor.

List of Subjects in 30 CFR Part 57

Mine Safety and Health, Metal and Nonmetal Mining, Gassy Mines.

Dated: May 28, 1985.

Thomas J. Shepich,

Deputy Assistant Secretary for Mine Safety and Health.

PART 57—SAFETY AND HEALTH STANDARDS—METAL AND NONMETAL UNDERGROUND MINES

1. It is proposed to revise Subpart T, Part 57, Subchapter N, Chapter I of the Code of Federal Regulations as follows:

Subpart T—Gassy Mines

General

Sec.
57.30001 Scope.
57.30002 Definitions.
57.30003 Mine Category or Subcategory.
57.30004 Placement or Change in Placement, Notice and Investigation.
57.30005 Notice and Appeal of Placement or Change in Placement.

Subcategory I–A

Scope

57.31000 Scope.

Fire Prevention and Control

57.31101 Smoking.
57.31102 Open Flame.

Ventilation

57.31201 Main Fans.
57.31202 Main Fan Operation and Inspection.
57.31203 Separation of Intake and Return Air.
57.31205 Main Ventilation Failure.
57.31207 Reentry After Shutdown of Main Fans.
57.31208 Booster Fans.
57.31209 Auxiliary Fans.
57.31210 Minimum Air Flow.
57.31211 Weekly Testing.
57.31212 Installation of Support Equipment.
57.31213 Changes in Ventilation.
57.31214 Action at 1.0 Percent Methane.
57.31215 Actions at 1.5 to 2.5 Percent Methane.
57.31216 Air Passing Abandoned or Unsealed Areas.
57.31217 Abandoned Areas.
57.31218 Seals and Stoppings.
57.31220 Line Brattice and Fan Ducting.
57.31221 Brattice Cloth and Ducting Flame Resistance.
57.31226 Overcast and Undercast Construction.
57.31227 Preshift Examination.
57.31228 Permissible Testing Devices.
57.31229 Mechanical Ventilation.
57.31230 Doors on Main Fan.

Equipment

57.31301 Mine-wide Monitoring System.
57.31303 Permissible Equipment.
57.31305 Methane Monitors.

Underground Retorts

57.31401 Underground Retort Plan.

Illumination

57.31501 Personal Electric Lamps.

Explosives

57.31601 Blasting from the Surface.
57.31602 Secondary Blasting.
57.31603 Explosive Materials and Blasting Units.

Subcategory I–B

Scope

57.32000 Scope.

Fire Prevention and Control

57.32101 Smoking.

Ventilation

57.32201 Main Fans.
57.32202 Separation of Intake and Return Air.
57.32203 Actions at 0.25 Percent Methane.
57.32204 Actions at 0.5 Percent Methane.
57.32205 Actions at 1.0 Percent Methane.
57.32206 Actions at 2.0 Percent Methane.
57.32207 Booster Fans.
57.32210 Weekly Testing.
57.32213 Seals and Stoppings.
57.32216 Brattice Cloth and Ducting Flame Resistance.
57.32221 Permissible Testing Devices.
57.32222 Mechanical Ventilation.

Underground Retorts

57.32401 Underground Retort Plan.

Illumination

57.32501 Personal Electric Lamps.

Explosives

57.32601 Explosive Materials and Blasting Units.

Subcategory I–C

Scope

57.33000 Scope.

Fire Prevention and Control

57.33101 Smoking.
57.33102 Open Flame.
57.33103 Dust Containing Volatile Matter.

Ventilation

57.33201 Main Fans.
57.33202 Main Fan Operation.
57.33203 Separation of Intake and Return Air.
57.33205 Main Ventilation Failure.
57.33207 Reentry After Shutdown of Main Fans.
57.33208 In-Line Filters.
57.33209 Auxiliary Fans.
57.33210 Minimum Air Flow.
57.33211 Weekly Testing.
57.33212 Installation of Support Equipment.
57.33214 Actions at 0.25 Percent Methane.
57.33215 Actions at 0.5 Percent Methane.
57.33218 Seals and Stoppings.
57.33221 Preshift Examination.
57.33222 Permissible Testing Devices.
57.33223 Mechanical Ventilation.
57.33224 Brattice Cloth and Ducting Flame Resistance.

Equipment

57.33301 Electrical Grounding.
57.33302 Pressure-Relief Vents.
57.33303 Jacketed and Shielded Cables.
57.33304 Permissible Equipment.

Illumination

57.33501 Personal Electric Lamps.

Explosives

57.33603 Blasting from the Surface.
57.33604 Explosive Materials and Blasting Units.

Miscellaneous

57.33701 Advance Face Boreholes.

Subcategory II–A

Scope

57.34000 Scope.

Fire Prevention and Control

57.34101 Smoking.
57.34102 Open Flame.

Ventilation

57.34201 Main Fans.

Category VI

Scope

Sec.

57.40000 Scope.

Ventilation

57.40001 Actions at 0.25 Percent Methane.
57.40002 Actions at 0.5 Percent Methane.
57.40003 Actions at 1.0 Percent Methane.
57.40004 Actions at 2.0 Percent Methane.

Authority: Sec. 101 of the Federal Mine Safety and Health Act of 1977, Pub. L. 91-173 as amended by Pub. L. 95-164, 91 Stat. 1291 (30 U.S.C. 811).

Subpart T—Gassy Mines

General

§ 57.30001 Scope.

This Subpart T sets forth the procedures and mandatory safety standards for each metal and nonmetal underground mine subject to the Federal Mine Safety and Health Act of 1977. All metal and nonmetal mines shall be placed into one of the categories or subcategories defined in this Subpart to protect miners against the hazards of methane gas. Each mine shall be required to operate in accordance with the standards applicable to its category or subcategory. Such mines shall also be operated in accordance with the applicable standards and regulations in this Title. The standards in this subpart apply only to underground operations.

§ 57.30002 Definitions.

The following definitions apply in this subpart.

Abandoned areas. Areas in which work has been completed, no further work is planned, and travel is not permitted.

Approved. A formal designation applied by MSHA indicating that the applicable requirements of Title 30 of the Code of Federal Regulations for the subject equipment have been met.

Blowout. A sudden, violent, unplanned release of gas or liquid due to reservoir pressure in a petroleum mine.

Certified. A formal designation applied by MSHA to a subassembly or component meeting the testing requirements of the appropriate Part of Title 30 of the Code of Federal Regulations.

Combustible material. A material that, in the form in which it is used and under the conditions anticipated, will ignite, burn, support combustion or release flammable vapors when subjected to fire or heat. Wood, paper, rubber, and plastics are examples of combustibles.

Competent person. A person who has sufficient experience and has been trained and designated by the mine operator to perform the task to which the person is assigned.

Explosive material. Explosives, blasting agents, and detonators. Explosives are any substance classified as an explosive by the Department of Transportation in §§ 173.53, 173.88, and 173.100 of the 1984 Edition of Title 49 of the Code of Federal Regulations. Blasting agents are any substance classified as a blasting agent by the Department of Transportation in § 173.114(a) of the 1984 Edition of Title 49 of the Code of Federal Regulations. Detonators are any device containing a detonating charge used to initiate an explosive. Examples of detonators are blasting caps, electric or non-electric instantaneous or delay blasting caps and delay connectors. These referenced documents are available at any Metal and Nonmetal Mine Safety and Health Subdistrict Office of the Mine Safety and Health Administration.

Geological area. An area characterized by the presence of the same ore bodies, the same stratigraphic sequence of beds, or the same ore-bearing geological formation.

Intermittently liberates methane. To release methane at occasional and sporadic intervals, and in indeterminate quantities.

Intrinsically safe. Incapable of releasing enough electrical or thermal energy under normal or abnormal conditions to cause ignition of a flammable mixture of methane or natural gas in the air of the most easily ignitable composition.

Mine atmosphere. Any point at least 12 inches away from the back, face, rib, and floor; and at least 3 feet laterally away from the collar of a borehole which releases gas into the mine in a Category IV mine.

Noncombustible material. A material that, in the form in which it is used and under the conditions anticipated, will not ignite, burn, support combustion, or release flammable vapors when subjected to fire or heat. Concrete, masonry block, brick, and steel are examples of noncombustible materials.

Outburst. The sudden, violent release of solids and high-pressure occluded gases including methane gas.

Permissible. A machine, material, apparatus, or device which has been investigated, tested, and approved under the applicable Parts of Title 30 of the Code of Federal Regulations by the Mine Safety and Health Administration, and is maintained in permissible condition.

Substantial construction. Construction of such strength, material, and workmanship that the object will withstand all reasonable air blast, blasting shock, ground movement, pressure differentials, wear, and usage to which it will be subjected.

§ 57.30003 Mine category or subcategory.

(a) All underground mines will be placed into one of the categories or subcategories defined in paragraph (b) of this section to protect miners against the hazards of methane gas. Subject to the review provisions of § 57.30005, each mine shall be required to operate in accordance with the safety standards applicable to its particular category or subcategory. Category or subcategory placement or change in placement shall include consideration of the following:

(1) The scope of each category or subcategory;

(2) The history and geology of the mine or of the geological area in which the mine is located;

(3) The ore body and host rock;

(4) The character, amount, duration, origin, and nature of methane emission and the presence of explosive dust and inert gases; and

(5) Analysis of methane gas samples. All gas samples taken for the purpose of category or subcategory placement or change in placement, and to determine if action levels have been reached, shall be taken in the mine atmosphere.

Tests for methane gas shall be made with hand-held methanometers, other devices, or with laboratory analysis of samples. Such methods may also be used when testing for methane gas or action levels in day-to-day mining.

(b) Categories and subcategories are defined as follows:

(1) *Category I* mines are mines that operate within a combustible ore body and either liberate methane or have the potential to liberate methane based on the history of the mine or the geological area in which the mine is located. Category I is divided into Subcategories I-A, I-B, and I-C as follows:

(i) Subcategory I-A mines are mines that operate within a combustible ore body and liberate methane and in which:

(A) A concentration of 0.25 percent or more methane has been detected by air analysis in the mine atmosphere; or

(B) An ignition of methane has occurred.

(ii) Subcategory I-B mines are mines that operate within a combustible ore body and have the potential to liberate methane based on the history of the mine or geological area in which the mine is located and in which:

(A) A concentration of 0.25 percent or more methane has not been detected by air analysis in the mine atmosphere; or

(B) An ignition of methane has not occurred.

(iii) Subcategory I–C mines are mines in which the product extracted is combustible and the dust has a volatile matter content of 60 percent or more measured on a moisture-free basis,[1] and which are located within a geological area where the history of the area indicates the potential for liberation of methane and dust containing volatile matter.

(2) *Category II* mines are domal salt mines where the history of the mine or geological area indicates the occurrence of or the potential for outbursts. Category II is divided into Subcategories II–A and II–B as follows:

(i) Subcategory II–A mines are domal salt mines where an outburst has occurred.

(ii) Subcategory II–B mines are domal salt mines where an outburst has not occurred but which have the potential for an outburst based on the history of the mine or geological area in which the mine is located.

(3) *Category III* mines are (i) mines in which noncombustible ore is extracted and which either continuously liberate methane or have the potential to continuously liberate methane based on the history of the mine or the geological area in which the mine is located, or (ii) mines which intermittently liberate explosive mixtures of methane.

(4) *Category IV* mines are mines in which noncombustible ore is extracted and which either intermittently liberate methane in nonexplosive mixtures or have the potential to do so based on the history of the mine or the geological area in which the mine is located.

(5) *Category V* mines are petroleum mines that operate within or drill into an oil reservoir. Category V is divided into Subcategories V–A and V–B as follows:

(i) Subcategory V–A mines are petroleum mines that operate entirely or partially within an oil reservoir, and all other petroleum mines in which:

(A) A concentration of 0.25 percent of more methane has been detected by air analysis in the mine atmosphere; or

(B) An ignition of methane has occurred.

(ii) Subcategory V–B mines are petroleum mines that operate outside and drill into an oil reservoir and in which:

(A) A concentration of 0.25 percent or more methane has not been detected by air analysis in the mine atmosphere; or

(B) An ignition of methane has not occurred.

[1] Measured by the American National Standard, ASTM D–3175–77, Standard Test Method for Volatile Matter in the Analysis Sample of Coal and Coke. [This document is available at any Metal and Nonmetal Mine Safety and Health Subdistrict Office of the Mine Safety and Health Administration].

(6) *Category VI* mines are mines in which the presence of methane gas has not been established and are not included in another category or subcategory.

§ 57.30004 Placement or change in placement, notice and investigation.

The Administrator for Metal and Nonmetal Mine Safety and Health shall be responsible for category and subcategory placement or change in placement of mines.

(a) Upon receipt of the mine operator's notice under § 57.1000 of the opening or reopening of a mine, the Administrator may undertake an investigation to determine the proper category or subcategory for such mine.

(b) The Administrator shall promptly undertake an investigation of any occurrence specified in paragraph (d) of this section. Mine operators shall make available to MSHA all information relating to a methane gas or dust ignition.

(c) The Administrator's determination of placement or change in placement shall:

(1) State the category or subcategory;

(2) State the reasons for placement or change in placement;

(3) Identify the data considered;

(4) Identify the applicable standards and provide the mine operator with a schedule under which the mine operator is to achieve compliance; and

(5) Notify the mine operator of the right to review the Administrator's determination under § 57.30005.

(d) MSHA is to be notified immediately if any of the following events occur:

(1) An outburst that results in 0.25 percent or more methane in the mine atmosphere;

(2) A blowout that results in 0.25 percent or more methane in the mine atmosphere;

(3) An ignition of methane; or

(4) A change from intermittent to continuous liberation of methane.

(5) These notifications are in addition to the notification requirements of 30 CFR Part 50.

(e) The Administrator shall promptly appoint an MSHA committee to investigate occurrences reported in accordance with paragraph (d) of this section. The purpose of this investigation is to provide for the safety of miners by determining if these occurrences warrant a change in mine category or subcategory. The scope of these investigations may include the following:

(1) Source, nature, and extent of occurrences;

(2) Conditions under which the incident occurred;

(3) Evaluation of samples and tests;

(4) Consideration of physical conditions at the time of the occurrence;

(5) Review of charts, logs, and records related to the occurrence;

(6) Consideration of the occurrence, and whether it is isolated, continuous, or could reoccur;

(7) A study of the geology of the mine and the geological area in which the mine is located; and

(8) Interviews of witnesses, company officials, employees, and other persons having knowledge of the mine or the occurrence. Representatives of the mine operator, the miners and the State agency charged with the responsibility for miner safety may participate in the investigation.

(f) The Administrator may, after notice, hold a public hearing in accordance with section 103(b) of the Federal Mine Safety and Health Act.

(g) Upon completion of the investigation the Administrator shall make a written determination of the findings.

§ 57.30005 Notice and appeal of placement or change in placement.

(a) The Administrator's determination of category or subcategory placement or change in placement shall become final upon the 30th day after it is served on the mine operator and representative of the miners, unless a request for a hearing has been filed within the 30 days as provided in paragraph (b) of this section. Service of the Administrator's determination is complete upon mailing by registered or certified mail, return receipt requested.

(b) The mine operator or representative of the miners may obtain review of the Administrator's determination by filing a request for a hearing with the Assistant Secretary of Labor for Mine Safety and Health, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Requests for a hearing shall be in writing and contain the following information:

(1) Name, address, and mine identification number;

(2) A concise statement of the reason why the Administrator's determination is inappropriate; and

(3) A copy of the Administrator's determination. Service of a request for hearing is completed upon mailing by registered or certified mail, return receipt requested.

(c) The mine operator shall post a copy of the Administrator's determination and the request for a

hearing on the mine bulletin board, and shall maintain the posting until the placement becomes final.

(d) As soon as practical after receipt of the request for a hearing, the Assistant Secretary shall refer to the Chief Administrative Law Judge, United States Department of Labor the following:

(1) The request for a hearing;

(2) The Administrator's determination;

(3) All information upon which the determination was based; and

(4) Any other information received in consideration of the determination.

(e) The hearing shall be regulated and conducted by an Administrative Law Judge in accordance with 29 CFR Part 18, entitled, *Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges* except to the extent otherwise provided by this section. The Administrative Law Judge shall make an initial decision and serve each party. The decision shall be final on the 30th day after service, unless discretionary review is undertaken by the Assistant Secretary or an appeal is filed under paragraph (f) of this section.

(f) Within 30 days after service of an initial decision of an Administrative Law Judge, the Assistant Secretary for Mine Safety and Health may undertake a discretionary review of the initial decision, or the mine operator or representative of the miners may appeal the initial decision of the Administrative Law Judge.

(1) The Assistant Secretary shall give notice of discretionary review to the mine operator and representative of the miners. The mine operator or representative of the miners shall give notice of an appeal to the other party. The notice shall specify the suggested changes and refer to the specific findings of fact, conclusions of law, and terms of the initial decision to be reviewed or appealed. The Assistant Secretary shall fix a time for filing any objections to the suggested changes and supporting reasons.

(2) The Assistant Secretary shall promptly notify the Administrative Law Judge of a discretionary review or an appeal, and thereafter the entire record of the proceedings shall be transmitted to the Assistant Secretary for review.

(3) The Assistant Secretary shall make the final decision based upon consideration of the record of the proceedings. The final decision may affirm, modify, or set aside in whole or in part, the findings and conclusions contained in the initial decision. A statement of reasons for the action taken shall be included in the final decision. The final decision shall be served upon the mine operator and representative of the miners.

(g) A decision by the Administrator for Metal and Nonmetal Mine Safety and Health, or the initial decision of the Administrative Law Judge, which is not appealed or reviewed within 30 days becomes final, and is not subject to judicial review for the purposes of 5 U.S.C. 704. Only a decision by the Assistant Secretary shall be considered final Agency action for purposes of judicial review.

Subcategory I–A

Scope

§ 57.31000 Scope.

Category I mines are mines that operate within a combustible ore body and either liberate methane or have the potential to liberate methane based on the history of the mine or the geological area in which the mine is located. Category I is divided into Subcategories I–A, I–B, and I–C. Subcategory I–A mines are mines that operate within a combustible ore body and liberate methane and in which:

(a) A concentration of 0.25 percent or more methane has been detected by air analysis in the mine atmosphere; or

(b) An ignition of methane has occurred.

The safety standards for this subcategory follow.

Fire Prevention and Control

§ 57.31101 Smoking

Persons shall not smoke or carry smoking materials, matches, or lighters underground. The operator shall institute a reasonable program to assure that persons entering the mine do not carry such items.

§ 57.31102 Open flame.

Open flames shall not be permitted underground except for welding, cutting and other maintenance operations, and igniting underground retorts. When using open flames in other than fresh air, tests shall be conducted by a competent person in places where methane may enter the air current before work is started and at intervals not to exceed 5 minutes. Continuous methane monitors with alarms may be used as an alternative to the testing requirements of this standard. Open flames shall not be used in atmospheres containing 1.0 percent or more methane.

Ventilation

§ 57.31201 Main fans.

Main fans shall be:

(a) Installed on the surface;

(b) Installed in noncombustible housings provided with noncombustible air ducts;

(c) Driven either by electric motors or by internal combustion engines. When an internal combusion engine is used to power a main fan or as a standby engine, the engine shall be: .

(1) Installed in a noncombustible housing;

(2) Installed so as to be protected from a possible fuel supply fire or explosion; and

(3) Installed so that the engine and exhaust are located out of direct line with the forward and reverse airstream provided by the fan. Engine exhaust gases shall be vented to the atmosphere so that exhaust cannot contaminate mine intake air.

(d) Offset not less than 15 feet from the nearest side of the mine opening to which the fan is connected. The fan installation shall be equipped with explosion-doors or a weak-wall located in direct line with possible explosion forces. The area of the doors or weak-wall shall be at least equivalent to the cross-sectional area of the airway;

(e) Provided with an automatic signal device to give warning or alarm when the air volume delivered by the fan slows or stops. The signal device shall be located so that it can be seen or heard by a responsible person designated by the mine operator at all times when persons are underground;

(f) Approved as permissible or—

(1) All electrical equipment and cables located within or exposed to the forward and reverse airstream shall be approved, certified, or accepted by MSHA in accordance with 30 CFR Part 18;

(2) Drive belts and nonmetallic fan blades shall be constructed of static conducting material; and

(3) Fan blades shall be constructed of nonsparking materials. Aluminum alloy fan blades shall not contain more than 0.5 percent magnesium; and

(g) Main exhaust fans shall be equipped with methane monitors which give an alarm when methane in the return air reaches 0.5 percent. Such monitors shall give an audible or visible alarm that can be seen or heard by a responsible person designated by the mine operator at all times when persons are underground.

When methane reaches 1.0 percent, electrical power underground shall be deenergized and all persons shall be withdrawn from the mine.

§ 57.31202 Main fan operation and inspection.

Main fans shall be:

(a) Operated continuously while persons are underground except as provided in §§ 57.31205 and 57.31213.

(b) Provided with pressure-recording gages. Gage charts shall be changed after completing one revolution; and

(c) Inspected daily while operating. Certification of the inspections shall be made by signature and date. Certifications and gage charts shall be retained for at least one year, and shall be made available to an authorized representative of the Secretary.

§ 57.31203 Separation of intake and return air.

The main intake and return air currents in mines shall be in separate shafts, slopes and drifts, except:

(a) Where multiple shafts are used for ventilation and a single shaft contains a curtain wall or partition for separation of air currents. Such wall or partition shall be constructed of reinforced concrete or equivalent, and provided with pressure-relief devices; or

(b) During development of openings to the surface:

(1) Ventilation tubing may be used for separation of main air currents in the same opening. Flexible ventilation tubing shall have a flame spread rating of 25 or less and shall not exceed 250 feet in length. Rigid ventilation tubing shall be constructed of noncombustible material.

(2) Only development related to making a primary ventilation connection may be performed beyond 250 feet of the shaft.

§ 57.31205 Main ventilation failure.

(a) At mines where a single main fan is used and such fan stops, or where multiple main fans are used and all such fans stop, or where there has been a total failure of ventilation other than the main fan, the operator shall take the following actions:

(1) Deenergize electrical power and diesel equipment in all working places, and

(2) If the stoppage lasts 30 minutes or more, promptly withdraw all persons to the surface.

(b) The above procedures do not apply to main fan failure if standby main fans or auxiliary power sources have commenced operation without interruption of normal ventilation and the air quantity delivered is equal to the air quantity delivered by the main fan during normal operation.

§ 57.31207 Reentry after shutdown of main fans.

When the main fan or fans have been stopped or if a total failure of ventilation has occurred while all persons are out of the mine, only competent persons shall be allowed underground to examine the mine or to make necessary ventilation changes. Other persons may reenter the mine only after the main fans have been operational for at least 30 minutes, and the mine atmosphere has been tested and determined to be free of 1.0 percent or more methane.

§ 57.31208 Booster fans.

(a) Booster fans shall be permissible and be:

(1) Deenergized automatically when methane levels reach 1.0 percent at the fan;

(2) Provided with an automatic signal device to give warning or alarm when the air volume delivered by the fan stops or slows. The signal device shall be located so that it can be seen or heard by a responsible person designated by the mine operator at all times when persons are underground;

(3) Equipped with a device that automatically deenergizes the power in the affected workings should the fan slow or stop; and

(4) Equipped with two sets of controls capable of starting and stopping the fan. One set shall be located at the fan and a second set shall be located at another accessible remote location.

(b) Booster fan installations, except for booster fans installed in ducts, shall be:

(1) Provided with doors which open automatically when all fans in the installation stop. The doors shall be large enough so that when open at least 50 percent of the airway is available for air flow; and

(2) Provided with an air lock when passage through the fan bulkhead is necessary.

§ 57.31209 Auxiliary fans.

Electric auxiliary fans shall be permissible and operated so that recirculation is minimized. Tests for methane shall be made at auxiliary fans before they are started. Auxiliary fans shall not be operated when air passing over or through them contains 1.0 percent or more methane. Auxiliary fans shall not be used to ventilate any working place during the interruption of normal mine ventilation. If an auxiliary fan stops or fails, electrical equipment in the affected area shall be deenergized at the power source and diesel equipment shall be shut off or removed from the affected area until ventilation is restored. Permissible diffuser fans that are an integral part of continuous mining machines may be used.

§ 57.31210 Minimum air flow.

The average air velocity in the last open crosscut in pairs or sets of developing entries, or through other ventilation openings nearest the face, shall be at least 40 feet per minute. The volume of air ventilating each face at a working place shall be at least 20 feet per minute multiplied by the open cross-sectional area (in square feet) of the entry. If such quantities of air cannot be maintained, all persons shall be immediately withdrawn from affected working areas, and all electrical power and diesel equipment shall be deenergized.

§ 57.31211 Weekly testing.

(a) At least once every 7 days, a competent person shall test for methane in the mine atmosphere and carbon monoxide at the following locations:

(1) In the return of each split where it enters the main return;

(2) Adjacent to retreat areas if accessible;

(3) At seals;

(4) In the main return;

(5) In at least one entry of each intake and return;

(6) In idle workings; and

(7) In the return air from unsealed abandoned workings.

(b) At least every 7 days, a competent person shall measure the volume of air at the following locations:

(1) Entering the main intakes;

(2) Leaving the main returns;

(3) Entering from each main split;

(4) Returning from each main split; and

(5) In the last open crosscuts or other ventilation openings nearest the active faces.

(c) Where such examinations disclose hazardous conditions, affected persons shall be informed and such conditions shall be promptly corrected.

(d) Certification of examinations shall be made by signature and date. Certifications shall be retained for at least one year, and made available to an authorized representative of the Secretary.

§ 57.31212 Installation of support equipment.

Battery charging stations, compressor stations, pump stations, and transformer stations shall be installed in intake air at locations which are sufficiently ventilated to prevent the build-up of methane and are free of combustible materials.

§ 57.31213 Changes in ventilation.

(a) Changes in ventilation which materially affect the main air current or

any split thereof and which may affect the safety of persons in the mine shall be made only when the mine is idle.

(b) Only those persons engaged in making such changes shall be permitted in the mine during the change.

(c) Power shall be deenergized in areas affected by the change before such change is made. Power shall not be restored until the results of the change have been ascertained and a competent person has examined affected working places for methane.

§ 57.31214 Actions at 1.0 percent methane.

If 1.0 percent or more methane is present in the mine atmosphere, ventilation changes shall be made immediately so that methane is reduced to less than 1.0 percent. Until such changes are achieved, all electrical power and diesel equipment shall be deenergized and no other work shall be permitted in the affected area.

§ 57.31215 Actions at 1.5 to 2.5 percent methane.

(a) If 1.5 percent or more methane is present in the mine atmosphere, all persons other than competent persons necessary to make ventilation changes shall be withdrawn from the affected area. Other persons shall not reenter affected areas until the methane is reduced to less than 1.0 percent.

(b) The methane content in the mine atmosphere in bleeder systems shall not exceed 2.0 percent at the point where a bleeder split enters a main return split. If the methane content exceeds 2.0 percent, immediate corrective action shall be taken. No other work shall be permitted upstream from problem areas on ventilation splits which contribute return air to the bleeder system until methane has been reduced to less than 2.0 percent. If methane has not been reduced to less than 2.0 percent within 30 minutes, or if methane levels reach 2.5 percent or more, all persons other than competent persons necessary to take corrective action shall be immediately withdrawn from affected areas. Other persons shall not reenter affected areas until methane has been reduced to less than 2.0 percent.

§ 57.31216 Air passing abandoned or unsealed areas.

Air that has passed by or through abandoned or unsealed inactive areas and contains 0.25 percent or more methane shall:

(a) Be coursed directly to a return airway;

(b) Be tested daily for methane by a competent person; and

(c) Not be used to ventilate any working place in the mine.

§ 57.31217 Abandoned areas.

Abandoned areas shall be:

(a) Sealed; or

(b) Ventilated, barricaded and posted against unauthorized entry.

§ 57.31218 Seals and stoppings.

(a) All seals, and those stoppings that separate main intake from main return airways, shall be of substantial construction.

(b) Where seals and stoppings are constructed of combustible materials or form-type blocks, exposed surfaces on both sides shall be coated with at least one-half inch of gunite, one-inch of shotcrete, or other coatings with equivalent fire resistance. Such seals and stoppings shall be provided with vertical supports or braces (stulls) which extend from floor to roof on both sides and are installed on not more than five-foot centers. Foam-type blocks used for seal or stopping construction shall be solid and at least 20 inches thick.

(c) At least one seal of every sealed area shall be fitted with a pipe and valve or pipe cap to permit sampling behind seals.

(d) Areas surrounding seals or stoppings constructed of combustible or foam-type materials shall be kept free of sources of heat, including power cables, and combustible materials for a distance of at least 25 feet.

§ 57.31220 Line brattice and fan ducting.

Line brattice, fans with ducting, or other equivalent means shall be used to provide positive air flow across each working face, except during initial continuous miner cuts, initial rounds blasted, and pillar extraction.

§ 57.31221 Brattice cloth and ducting flame resistance.

Brattice cloth and ducting shall have a flame spread rating of 25 or less.

§ 57.31226 Overcast and undercast construction.

Overcasts and undercasts shall be:

(a) Constructed to minimize leakage;

(b) Of substantial construction;

(c) Constructed either of noncombustible materials or exposed surfaces coated with at least one-inch of shotcrete or one-half inch of gunite or other material with equivalent fire resistance; and

(d) Kept clear of obstructions.

§ 57.31227 Preshift examination.

(a) Prior to the beginning of a shift following an idle shift, a competent person shall test the mine atmosphere of all working places for methane within 3 hours before persons other than examiners enter the mine.

(b) When one shift immediately follows another, a competent person on each shift shall test the mine atmosphere of each working place for methane before work is started on that shift.

(c) At least once during each 24-hour period a competent person shall test the mine atmosphere of areas other than those examined in paragraph (a) and (b) of this section for methane.

§ 57.31228 Permissible testing devices.

(a) Portable, battery-powered, self-contained devices used for measuring methane, other gases, and contaminants in mine air shall be approved as permissible in accordance with 30 CFR Parts 18, 22, 27, and 29, as appropriate. Such devices shall be maintained in accordance with manufacturers' instructions, or an equivalent maintenance and calibration procedure.

(b) Permissible flame safety lamps shall not be used to test for methane except as a supplementary device.

(c) If electrically-powered remote sensing devices are used, that portion of the instrument located in return air or other places where combustible gases may be present shall meet the requirements of 30 CFR Parts 18, 22, 23, 27, and 29, as appropriate.

(d) If air samples are delivered to remote analytical devices through sampling tubes, such tubes shall be provided with in-line flame arrestors. Flame arrestors shall be located upstream from pumping equipment and analytical instruments. Pumping equipment and analytical instruments shall be located in intake air.

§ 57.31229 Mechanical ventilation.

All mines shall be ventilated mechanically.

§ 57.31230 Doors on main fans.

In mines ventilated by a combination of multiple main fans, each main fan installation shall be equipped with noncombustible doors. Such doors shall automatically close to prevent air reversal through the fan. The doors shall be located so that they are not in direct line with forces which could come out of the mine.

Equipment

§ 57.31301 Mine-wide monitoring system.

(a) A mine-wide monitoring system shall be installed to provide surface recordings of methane concentrations in the mine atmosphere from underground locations. Components of the system shall meet the requirements of 30 CFR Parts 18, 22, 23, and 27, as appropriate;

or be intrinsically safe or explosion-proof.

(b) Mine-wide monitoring systems shall:

(1) Give audible and visible warnings on the surface and underground when methane at any sensor reaches 1.0 percent or more. Warning devices shall be located so that they can be seen and heard by a responsible person designated by the mine operator.

(2) Automatically deenergize the power underground when methane at any sensor reaches 1.5 percent; and

(3) Automatically deenergize the power underground when power to the sensor is interrupted. Timing devices are permitted to avoid nuisance tripping for periods not to exceed 30 seconds.

(c) Recordings of methane shall be retained for at least one year, and shall be available to an authorized representative of the Secretary.

(d) At least once every two weeks, the systems shall be checked with a known mixture of 1.0 percent methane, and calibrated if necessary. Certification shall be made by signature and date. Certification of calibration tests shall be retained for at least one year, and shall be made available to an authorized representative of the Secretary.

§ 57.31303 Permissible equipment.

All electrical and diesel-powered equipment used in or beyond the last open crosscut shall be permissible. Equipment shall not be operated in atmospheres containing 1.0 percent or more methane.

§ 57.31305 Methane monitors.

Methane monitoring devices (methane monitors) shall be installed on continuous mining machines and longwall mining systems. Such monitors shall be permissible in accordance with 30 CFR Part 27, except that the monitors shall give warning at 1.0 percent methane and automatically deenergize the equipment and prevent starting when methane levels reach 1.5 percent or more, and when power to the sensor is interrupted. The sensing unit of the monitors shall be positioned as close to the face as practical.

Underground Retorts

§ 57.31401 Underground retort plan.

(a) Prior to the ignition of underground retorts a written ignition and operation plan shall be submitted for approval to the district manager for the area in which the mine is located.

(b) The retorting plan shall include the following:

(1) Provisions for two independent power sources for mine ventilation fans and retort blowers, and provisions for switching automatically from one power source to the other;

(2) Descriptions of alrarm systems for blower malfunctions and actions necessary to assure safety of personnel in the event of a failure;

(3) Acceptable levels of combustible gases and oxygen in retort off-gases during start-up and during burning; levels at which corrective action will be initiated; levels at which personnel will be removed from the retort areas, from the mine, and from endangered surface areas; and, conditions for reentering the mine;

(4) Specifications and locations of off-gas monitoring procedures and equipment;

(5) Specifications for construction of retort bulkheads and seals, and their locations;

(6) Procedures for ignition of a retort and for reignition following a shutdown; and

(7) Details of area monitoring and alarm systems for hazardous gases and oxygen deficiency, and actions to be taken to assure safety of personnel.

(c) Within 90 days of receipt of a proposed plan, the district manager will notify the mine operator in writing of approval or disapproval of the plan. If the plan is not approved or if revisions are required, the reasons shall be specified in writing. The mine operator may request a conference with the Administrator for Metal and Nonmetal Mine Safety and Health to review the plan, and MSHA's disapproval or revisions of the plan. Prior to making a decision, the Administrator may conduct an investgation and hold a hearing in accordance with section 103(b) of the Federal Mine Safety and Health Act. The Administrator shall notify the mine operator of the findings and determination. The plan, as adopted or modified by the Administrator, shall become the approved plan and the mine operator shall comply with all provisions of the approved plan.

(d) Pending review of the withdrawal of a plan approval, or denial of a plan revision, a retort may continue in operation according to the terms of the previously approved plan until a final decision is issued.

Illumination

§ 57.31501 Personal electric lamps.

Electric lamps which provide personal illumination shall be permissible in accordance with 30 CFR Parts 19 and 20, as appropriate.

Explosives

§ 57.31601 Blasting from the surface.

(a) All development, production, and bench rounds shall be initiated electrically from the surface after all persons are out of the mine. Persons shall not reenter the mine until ventilating air has passed over the blast area and through the mine-wide monitoring sensors. If the system indicates that methane in the mine is less than 1.0 percent, persons may enter the mine, and all places blasted shall be tested for methane by a competent person before work is started. Vehicles used for transportation when conducting these tests shall be permissible. If the monitoring system indicates the presence of methane in excess of 1.0 percent, persons shall not reenter the mine until the mine has been examined by a competent person and is free of methane.

(b) The mine shall be ventilated for at least 30 minutes after blasting before persons enter the mine.

§ 57.31602 Secondary blasting.

Prior to secondary blasting, tests for methane shall be made in the mine atmosphere at blast sites by a competent person. Secondary blasts shall not be initiated where 0.5 percent or more methane is present.

§ 57.31603 Explosive materials and blasting units.

Explosive materials and blasting units shall not be used until the mine operator has received written permission from the appropriate MSHA district manager for each explosive material and blasting unit to be used. In granting permission, the district manager will be guided by such factors as the oxygen balance and detonation temperatures, the conditions under which blasting is to be performed, and the applicability to the material mined. The mine operator shall comply with all conditions and procedures incorporated into an approval of an explosive material or blasting unit.

Subcategory I–B

Scope

§ 57.32000 Scope.

Category I mines are mines that operate within a combustible ore body and either liberate methane or have the potential to liberate methane based on the history of the mine or the geological area in which the mine is located. Category I is divided into Subcategories I–A, I–B, and I–C. Subcategory I–B mines are mines that operate within a combustible ore body and have the potential to liberate methane based on

the history of the mine or geological area in which the mine is located and in which:

(a) A concentration of 0.25 percent or more methane has not been detected by air analysis in the mine atmosphere; or

(b) An ignition of methane has not occurred.

The safety standards for this subcategory follow.

Fire Prevention and Control

§ 57.32101 Smoking.

Smoking shall be restricted to designated areas located in intake air. The operator shall institute a reasonable program to assure that smoking and smoking materials, matches, and lighters are confined to such areas.

Ventilation

§ 57.32201 Main fans.

Main fans shall be:

(a) Installed on the surface;

(b) Installed in noncombustible housings provided with noncombustible air ducts;

(c) Driven either by electric motors or by internal combustion engines. When an internal combustion engine is used to power a main fan or as a standby engine, the engine shall be:

(1) Installed in a noncombustible housing;

(2) Installed so as to be protected from a possible fuel supply fire or explosion; and

(3) Installed so that the engine and exhaust are located out of direct line with the forward and reverse airstream provided by the fan. Engine exhaust gases shall be vented to the atmosphere so that exhaust cannot contaminate mine intake air.

(d) Offset not less than 15 feet from the nearest side of the mine opening to which the fan is connected. The fan installation shall be equipped with explosion-doors or a weak-wall in direct line with possible explosion forces. The area of the doors or weak-wall shall be at least equivalent to the cross-sectional area of the airway;

(e) Provided with an automatic signal device to give warning or alarm when the air volume delivered by the fan slows or stops. The signal device shall be located so that it can be seen or heard by a responsible person designated by the mine operator at all times when persons are underground;

(f) Approved as permissible or—

(1) All electrical equipment and cables located within or exposed to the forward and reverse airstreams shall be approved, certified, or accepted by MSHA in accordance with 30 CFR Part 18.

(2) Drive belts and nonmetallic fan blades shall be constructed of static conducting material; and

(3) Fan blades shall be constructed of nonsparking materials. Aluminum alloy fan blades shall not contain more than 0.5 percent magnesium; and

(g) Main exhaust fans shall be equipped with methane monitors which give an alarm when methane in the return air reaches 0.5 percent. Such monitors shall give an audible or visible alarm that can be seen or heard by a responsible person designated by the mine operator at all times when persons are underground. When methane reaches 1.0 percent, electrical power underground shall be deenergized and all persons shall be withdrawn from the mine.

§ 57.32202 Separation of intake and return air.

The main intake and return air currents in mines shall be in separate shafts, slopes and drifts, except:

(a) Where multiple shafts are used for ventilation and a single shaft contains a curtain wall or partition for separation of air currents. Such wall or partition shall be constructed of reinforced concrete or equivalent, and provided with pressure-relief devices; or

(b) During development of openings to the surface:

(1) Ventilation tubing may be used for separation of main air currents in the same opening. Flexible ventilation tubing shall have a flame spread rating of 25 or less and shall not exceed 250 feet in length. Rigid ventilation tubing shall be constructed of noncombustible material.

(2) Only development related to making a primary ventilation connection may be performed beyond 250 feet of the shaft.

§ 57.32203 Actions at 0.25 percent methane.

If 0.25 percent or more methane is present in the mine atmosphere, ventilation changes shall be made to reduce the methane, and MSHA shall be notified immediately.

§ 57.32204 Actions at 0.5 percent methane.

If 0.5 percent or more methane is present in the mine atmosphere, ventilation changes shall be made immediately so that the methane is reduced to less than 0.5 percent. Until such changes are achieved, electrical power shall be deenergized and diesel equipment shall be shut off or immediately removed from the area. No other work shall be permitted in the affected area.

§ 57.32205 Actions at 1.0 percent methane.

If 1.0 percent or more methane is present in the mine atmosphere, all persons other than competent persons necessary to make corrections shall be withdrawn from the affected area until the methane is reduced to less than 0.5 percent.

§ 57.32206 Actions at 2.0 percent methane.

If 2.0 percent or more methane is present in the mine atmosphere, all persons other than competent persons necessary to make ventilation changes shall be withdrawn from the mine until the methane is reduced to less than 0.5 percent.

§ 57.32207 Booster fans.

(a) Booster fans shall be permissible and be:

(1) Deenergized automatically when methane levels reach 1.0 percent at the fan;

(2) Provided with an automatic signal device to give warning or alarm when the air volume delivered by the fan stops or slows. The signal device shall be located so that it can be seen or heard by a responsible person designated by the mine operator at all times when persons are underground;

(3) Equipped with a device that automatically deenergizes the power in the affected workings should the fan slow or stop; and

(4) Equipped with two sets of controls capable of starting and stopping the fan. One set shall be located at the fan and a second set shall be located at another accessible remote location.

(b) Booster fan installations except for booster fans installed in ducts, shall be:

(1) Provided with doors which open automatically when all fans in the installation stop. The doors shall be large enough so that when open at least 50 percent of the airway is available for air flow; and

(2) Provided with an air lock when passage through the fan bulkhead is necessary.

§ 57.32210 Weekly testing.

(a) At least once every 7 days, a competent person shall test for methane in the mine atmosphere and carbon monoxide at the following locations:

(1) In the return of each split where it enters the main return;

(2) Adjacent to retreat areas if accessible;

(3) At seals;

(4) In the main return;

(5) In at least one entry of each intake and return;

(6) In idle workings; and

(7) In the return air from unsealed abandoned workings.

(b) At least every 7 days a competent person shall measure the volume of air at the following locations:

(1) Entering the main intakes;

(2) Leaving the main returns;

(3) Entering from each main split;

(4) Returning from each main split; and

(5) In the last open crosscuts or other ventilation openings nearest the active faces.

(c) Where such examinations disclose hazardous conditions, affected persons shall be informed and such conditions shall be promptly corrected.

(d) Certification of examinations shall be made by signature and date. Certifications shall be retained for at least one year, and made available to an authorized representative of the Secretary.

§ 57.32213 Seals and stoppings.

(a) All seals, and those stoppings that separate main intake from main return airways, shall be of substantial construction.

(b) Where seals and stoppings are constructed of combustible materials of foam-type blocks, exposed surfaces on both sides shall be coated with at least one-half inch of gunite, one-inch of shotcrete, or other coatings with equivalent fire resistance. Such seals and stoppings shall be provided with vertical supports or braces (stulls) which extend from floor to roof on both sides and are installed on not more than five-foot centers. Foam-type blocks used for seal or stopping construction shall be solid and shall be at least 20 inches thick.

(c) At least one seal of every sealed area shall be fitted with a pipe and valve or pipe cap to permit sampling behind seals.

(d) Areas surrounding seals or stoppings constructed of combustible or foam-type materials shall be kept free of sources of heat, including power cables, and combustible materials for a distance of at least 25 feet.

§ 57.32216 Brattice cloth and ducting flame resistance.

Brattice cloth and ducting shall have a flame spread rating of 25 or less.

§ 57.32221 Permissible testing devices.

(a) Portable, battery-powered, self-contained devices used for measuring methane, other gases, and contaminants in mine air shall be approved as permissible in accordance with 30 CFR Parts 18, 22, 27, and 29, as appropriate. Such devices shall be maintained in accordance with manufacturers' instructions, or an equivalent maintenance and calibration procedure.

(b) Permissible flame safety lamps shall not be used to test for methane except as a supplementary device.

(c) If electrically-powered remote sensing devices are used, that portion of the instrument located in return air or other places where combustible gases may be present, shall meet the requirements of 30 CFR Parts 18, 22, 23, 27, and 29, as appropriate.

(d) If air samples are delivered to remote analytical devices through sampling tubes, such tubes shall be provided with in-line flame arrestors. Flame arrestors shall be located upstream from pumping equipment and analytical instruments. Pumping equipment and analytical instruments shall be located in intake air.

§ 57.32222 Mechanical ventilation.

All mines shall be ventilated mechanically.

Underground Retorts

§ 57.32401 Underground retort plan.

(a) Prior to the ignition of underground retorts, a written ignition and operation plan shall be submitted for approval to the appropriate district manager.

(b) The retorting plan shall include the following:

(1) Provisions for two independent power sources for mine ventilation fans and retort blowers, and provisions for switching automatically from one power source to the other;

(2) Descriptions of alarm systems for blower malfunctions and actions necessary to assure safety of personnel in the event of a failure;

(3) Acceptable levels of combustible gases and oxygen in retort off-gases during start-up and during burning; levels at which corrective action will be initiated; levels at which personnel will be removed from the retort areas, from the mine, and from endangered surface areas, and, conditions for reentering the mine;

(4) Specifications and locations of off-gas monitoring procedures and equipment;

(5) Specifications for construction of retort bulkheads and seals, and their locations;

(6) Procedures for ignition of a retort and for reignition following a shutdown; and

(7) Details of area monitoring and alarm systems for hazardous gases and oxygen deficiency, and actions to be taken to assure safety of personnel.

(c) Within 90 days of receipt of a proposed plan, the district manager will notify the mine operator in writing of the approval or disapproval of the plan. If the plan is not approved or if revisions are required, the reasons shall be specified in writing. The mine operator may request a conference with the Administrator for Metal and Nonmetal Mine Safety and Health to review the plan, and MSHA's disapproval or revisions of the plan. Prior to making a decision, the Administrator may conduct an investigation and hold a hearing in accordance with section 103(b) of the Federal Mine Safety and Health Act. The Administrator shall notify the mine operator of the findings and determination. The plan, as adopted or modified by the Administrator, shall become the approved plan and the mine operator shall comply with all provisions of the approved plan.

(d) Pending review of the withdrawal of a plan approval, or denial of a plan revision, a retort may continue in operation according to the terms of the previously approved plan until a final decision is issued.

Illumination

§ 57.32501 Personal electric lamps.

Electric lamps which provide personal illumination shall be permissible in accordance with 30 CFR Parts 19 and 20, as appropriate.

Explosives

§ 57.32601 Explosive materials and blasting units.

Explosive materials and blasting units shall not be used until the mine operator has received written permission from the appropriate district manager for each explosive material and blasting unit to be used. In granting permission, the district manager will be guided by such factors as the oxygen balance and detonation temperatures, the conditions under which blasting is to be performed, and the applicability to the material mined. The mine operator shall comply with all conditions and procedures incorporated into an approval of an explosive material or blasting unit.

Subcategory I–C

Scope

§ 57.33000 Scope.

Category I mines are mines that operate within a combustible ore body and either liberate methane or have the potential to liberate methane based on the history of the mine of the geological area in which the mine is located. Category I is divided into Subcategories I–A, I–B, and I–C. Subcategory I–C mines are mines in which the product extracted is combustible and the dust

has volatile matter content of 60 percent or more measured on a moisture free basis [1] and which are located within a geological area where the history of the area indicates the potential for liberation of methane and volatile dust. The safety standards for this subcategory follow.

Fire Prevention and Control

§ 57.33101 Smoking.

(a) Persons shall not smoke or carry smoking material, matches, or lighters underground or within 50 feet of a mine opening. The operator shall institute a reasonable program to assure that persons entering the mine do not carry such items.

(b) Smoking is prohibited in surface milling facilities except in designated, dust-free smoking areas.

§ 57.33102 Open flame.

(a) Open flames, including cutting and welding, shall not be used underground.

(b) Welding and cutting shall not be done 50 feet of a mine opening unless all persons are out of the mine and the mine opening is covered. The cover shall be a substantial material, such as metal or wood, covered by a wet material to prevent sparks and flames from entering the mine opening.

§ 57.33103 Dust containing volatile matter.

Dust containing volatile matter shall not be allowed to accumulate on the surfaces of enclosures, facilities, or equipment used in surface milling in amounts that, if suspended in air, would become an explosive mixture.

Ventilation

§ 57.33201 Main fans.

Main fans shall be:

(a) Installed on the surface;

(b) Installed in a noncombustible housing provided with noncombustible air ducts;

(c) Driven either by electric motors or by internal combustion engines. When an internal combustion engine is used to power a main fan or as a standby engine, the engine shall be:

(1) Installed in a noncombustible housing;

(2) Installed so as to be protected from a possible fuel supply fire or explosion; and

(3) Installed so that the engine and exhaust are located out of direct line with the forward and reverse airstream provided by the fan. Engine exhaust gases shall be vented to the atmosphere so that exhaust cannot contaminate mine intake air.

(d) Offset not less than 15 feet from the nearest side of the mine opening to which the fan is connected. The fan installation shall be equipped with explosion-doors or a weak-wall located in direct line with possible explosion forces. The area of the doors or weak-wall shall be at least equivalent to the cross-sectional area of the airway;

(e) Unless the fan can be heard by a responsible person, it shall be provided with an automatic signal device to give warning or alarm when the air volume delivered by the fan slows or stops. The signal device shall be located so that it can be seen or heard by a responsible person designated by the mine operator at all times when persons are underground; and

(f) Approved as permissible or—

(1) All electrical equipment and cables located within or exposed to the forward and reverse airstreams shall be approved, certified, or accepted by MSHA in accordance with CFR Part 18;

(2) Drive belts and nonmetallic fan blades shall be constructed of static conducting material; and

(3) Fan blades shall be constructed of nonsparking materials. Aluminum alloy fan blades shall not contain more than 0.5 percent magnesium.

§ 57.33202 Main fan operation.

Main fans shall be operated continuously while ore production is in progress.

§ 57.33203 Separation of intake and return air.

The main intake and return air currents in single shafts shall be separated by ventilation tubing or curtain walls. Curtain walls or partitions shall be constructed of reinforced concrete or equivalent, and provided with pressure-relief devices. Ventilation tubing shall be constructed of noncombustible material.

§ 57.33205 Main ventilation failure.

(a) At mines where a single main fan is used and such fan stops, or where multiple main fans are used and all such fans stop, the operator shall take the following actions:

(1) Stop all ore production immediately; and

(2) Monitor the air in affected working places. If methane levels reach 0.5 percent or more, promptly withdraw all persons from the mine.

(b) The above procedures do not apply to main fan failure if standby main fans or auxiliary power sources have begun operation without interruption of normal ventilation and the air quantity delivered is equal to the air quantity delivered by the main fan during normal operation.

§ 57.33207 Reentry after shutdown of main fans.

When the main fan or fans have been stopped or if a total failure of ventilation has occurred while all persons are out of the mine, only competent persons shall be allowed underground to examine the mine or make necessary ventilation changes. Other persons may reenter the mine only after the main fans have been started and the mine has been tested for, and determined to be free of, 0.25 percent or more methane.

§ 57.33208 In-line filters.

Filters or separators shall be installed on air-lift fan systems to prevent explosive concentrations of dust or ore from passing through the fan.

§ 57.33209 Auxiliary fans.

Electric auxiliary fans shall be permissible and operated so that recirculation is minimized. Tests for methane shall be made at auxiliary fans before they are started. Such fans shall not be operated when air passing over or through them contains 0.5 percent or more methane.

§ 57.33210 Minimum air flow.

The velocity of air ventilating each face shall be at least 40 feet per minute.

§ 57.33211 Weekly testing.

(a) At least once every 7 days a competent person shall test for methane in the mine atmosphere and measure the velocity of air at each face in all active workings. Where such examinations disclose hazardous conditions, affected persons shall be informed and such conditions shall be promptly corrected.

(b) Certification of these examinations shall be made by signature and date. Certifications shall be retained for at least one year, and shall be made available to an authorized representative of the Secretary.

§ 57.33212 Installation of support equipment.

Battery charging stations, compressor stations, and electrical substations shall not be installed underground or within 100 feet of a mine opening.

§ 57.33214 Actions at 0.25 percent methane.

If 0.25 percent or more methane is present in the mine atmosphere, ventilation changes shall be made immediately so that methane is reduced

[1] Measured by the American National Standard, ASTM D-3175-77, standard test method for volatile matter in the analysis sample of Coal and Coke. (This document is available at any Metal and Nonmetal Mine Safety and Health Subdistrict Office of the Mine Safety and Health Administration.)

to less than 0.25 percent. Until such changes are achieved, no other work shall be permitted in the affected area.

§ 57.33215 Actions at 0.5 percent methane.

If 0.5 percent or more methane is present in the mine atmosphere, all persons other than competent persons necessary to make ventilation changes shall be withdrawn from the affected area until the methane is reduced to less than 0.25 percent.

§ 57.33218 Seals and stoppings.

(a) All seals, and those stoppings that separate main intake from main return airways, shall be of substantial construction.

(b) Where seals and stoppings are constructed of combustible materials or foam-type blocks, exposed surfaces on both sides shall be coated with at least one-half inch of gunite, one-inch of shotcrete, or other coatings with equivalent fire resistance. Such seals and stoppings shall be provided with vertical supports or braces (stulls) which extend from floor to roof on both sides and are installed on not more than five-foot centers. Foam-type blocks used for seal or stopping construction shall be solid and shall be at least 20 inches thick.

(c) At least one seal of every sealed area shall be fitted with a pipe and valve or pipe cap to permit sampling behind seals.

(d) Areas surrounding seals or stoppings constructed of combustible or foam-type materials shall be kept free of sources of heat, including power cables, and combustible materials for a distance of at least 25 feet.

§ 57.33221 Preshift examination.

(a) Prior to the beginning of a shift following an idle shift, a competent person shall test the mine atmosphere of all working places for methane within 3 hours before persons other than examiners enter the mine.

(b) When one shift immediately follows another, a competent person on each shift shall test the mine atomsphere of each working place for methane before work is started on that shift.

(c) At least once during each 24-hour period a competent person shall test the mine atmosphere of areas other than those examined in paragraphs (a) and (b) of this section for methane.

§ 57.33222 Permissible testing devices.

(a) Portable, battery-powered, self-contained devices used for measuring methane, other gases, and contaminants in mine air shall be approved as permissible in accordance with 30 CFR Parts 18, 22, 27, and 29, as appropriate. Such devices shall be maintained in accordance with manufacturers' instructions, or an equivalent maintenance and calibration procedure.

(b) Flame safety lamps shall not be used.

(c) If electrically-powered remote sensing devices are used, that portion of the instrument located in return air or other places where combustible gases may be present shall meet the requirements of 30 CFR Parts 18, 22, 23, 27, and 29, as appropriate.

(d) If air samples are delivered to remote analytical devices through sampling tubes, such tubes shall be provided with in-line flame arrestors. Flame arrestors shall be located upstream from pumping equipment and analytical instruments. Pumping equipment and analytical instruments shall be located in intake air.

§ 57.33223 Mechanical ventilation.

All mines shall be ventilated mechanically.

§ 57.33224 Brattice cloth and ducting flame resistance.

Brattice cloth and ducting shall have a flame spread rating of 25 of less.

Equipment

§ 57.33301 Electrical grounding.

Systems providing electrical power underground shall be:

(a) Grounded. Ground-fault current shall be limited to not more than 15 amperes;

(b) Protected by circuit breakers equipped with ground-fault devices that will interrupt the circuit at not more than 7 amperes ground-fault current; and

(c) Continuously monitored for continuity of the ground circuit, or ground circuits shall be tested for continuity at least every 30 days.

§ 57.33302 Pressure-relief vents.

Pressure-relief vents or other explosion suppression systems shall be provided on explosive dust handling and processing equipment and on facilities housing such equipment. Vents shall be installed so that forces are directed away from persons should an explosion occur. The ratio of vent size to internal size of the equipment of facility shall be not less than one square foot of vent for each 80 cubic feet of volume or space.

§ 57.33303 Jacketed and shielded cables.

Only flame-resistant, jacketed cables accepted in accordance with 30 CFR 18.64 shall be used underground. Such cables shall have grounded metallic shielding around each power conductor which is in continuous electrical contact with the grounding conductors. Installation and maintenance shall be in accordance with the cable manufacturers' specifications.

§ 57.33304 Permissible equipment.

Only permissible electrical equipment shall be used underground.

Illumination

§ 57.33501 Personal electric lamps.

Electric lamps which provide personal illumination shall be permissible in accordance with 30 CFR Parts 19 and 20, as appropriate.

Explosives

§ 57.33603 Blasting from the surface.

(a) All blasting shall be initiated electrically from the surface after all persons are out of the mine and any connecting mines.

(b) Persons shall not reenter the mine until a competent person has examined the blast sites to assure that methane concentrations are less than 0.25 percent. If ventilation corrections are necessary to reduce methane levels, only those persons necessary to make the corrections shall be allowed underground.

§ 57.33604 Explosive materials and blasting units.

Explosive materials and blasting units shall not be used until the mine operator has received written permission from the appropriate district manager for each explosive material and blasting unit to be used. In granting permission, the district manager will be guided by such factors as the oxygen balance and detonation temperatures, the conditions under which blasting is to be performed, and the applicability to the material mined. The mine operator shall comply with all conditions and procedures incorporated into an approval of an explosive material or blasting unit.

Miscellaneous

§ 57.33701 Advance face boreholes.

(a) Boreholes shall be drilled at least 25 feet in advance of a face whenever the working place is within:

(1) 50 feet of a surveyed abandoned mine or abandoned workings which cannot be inspected; or

(2) 200 feet of an unsurveyed abandoned mine or abandoned workings which cannot be inspected.

(b) Boreholes shall be drilled in such a manner to insure that the advancing face will not accidentally break into an abandoned mine or abandoned working

Subcategory II–A

Scope

§ 57.34000 Scope.

Category II mines are domal salt mines where the history of the mine or the geological area indicates the occurrence of or the potential for outbursts. Category II is divided into Subcategories II–A and II–B. Subcategory II–A mines are domal salt mines where an outburst has occurred. The safety standards for this subcategory follow.

Fire Prevention and Control

§ 57.34101 Smoking.

Persons shall not smoke or carry smoking materials, matches, or lighters underground. The operator shall institute a reasonable program to assure that persons entering the mine do not carry such items.

§ 57.34102 Open flame.

Open flames shall not be permitted underground except for welding, cutting, and other maintenance operations. When using open flames in other than fresh air, tests shall be conducted by a competent person in places where methane may enter the air current before work is started and at intervals not to exceed 5 minutes. Continuous methane monitors with alarms may be used as an alternative to the testing requirements of this standard. Open flames shall not be used in atmospheres containing 0.5 percent or more methane.

Ventilation

§ 57.34201 Main fans.

Main fans shall be:

(a) Installed on the surface;

(b) Installed in noncombustible housings provided with noncombustible air ducts;

(c) Driven either by electric motors or by internal combustion engines. When an internal combustion engine is used to power a main fan or as a standby engine, the engine shall be:

(1) Installed in a noncombustible housing;

(2) Installed so as to be protected from a possible fuel supply fire or explosion; and

(3) Installed so that the engine and exhaust are located out of direct line with the forward and reverse airstream provided by the fan. Engine exhaust gases shall be vented to the atmosphere so that exhaust cannot contaminate mine intake air.

(d) Offset not less than 15 feet from the nearest side of the mine opening to which the fan is connected. The fan installation shall be equipped with explosion-doors or a weak-wall located in direct line with possible explosion forces. The area of the doors or weak-wall shall be at least equivalent to the cross-sectional area of the airway;

(e) Provided with an automatic signal device to give warning or alarm when the air volume delivered by the fan slows or stops. The signal device shall be located so that it can be seen or heard by a responsible person designated by the mine operator at all times when persons are underground; and

(f) Approved as permissible or—

(1) All electrical equipment and cables located within or exposed to the forward and reverse airstream shall be approved, certified, or accepted by MSHA in accordance with 30 CFR Part 18;

(2) Drive belts and nonmetallic fan blades shall be constructed of static conducting material; and

(3) Fan blades shall be constructed of nonsparking materials. Aluminum alloy fan blades shall not contain more than 0.5 percent magnesium.

§ 57.34202 Main fan operation and inspection

Main fans shall be:

(a) Operated continuously while persons are underground except as provided in §§ 57.34205 and 57.34210;

(b) Provided with pressure-recording gages. Gage charts shall be changed after completing one revolution; and

(c) Inspected daily while operating. Certification of the inspections shall be made by signature and date. Certifications and gage charts shall be retained for at least one year, and shall be made available to an authorized representative of the Secretary.

§ 57.34203 Separation of intake and return air.

The main intake and return air currents in mines shall be in separate shafts, slopes and drifts, except:

(a) Where multiple shafts are used for ventilation and a single shaft contains a curtain wall or partition for separation of air currents. Such wall or partition shall be constructed of reinforced concrete or equivalent, and provided with pressure-relief devices; or

(b) During development of openings to the surface:

(1) Ventilation tubing may be used for separation of main air currents in the same opening. Flexible ventilation tubing shall have a flame spread rating of 25 or less and shall not exceed 250 feet in length. Rigid ventilation tubing shall be constructed of noncombustible material.

(2) Only development related to making a primary ventilation connection may be performed beyond 250 feet of the shaft.

§ 57.34205 Main ventilation failure.

(a) At mines where a single main fan is used and such fan stops, or where multiple main fans are used and all such fans stop, or where there has been a total failure of ventilation other than the main fan, the operator shall take the following actions:

(1) Deenergize all electrical power and diesel equipment in all working places; and

(2) If the stoppage lasts 30 minutes or more, promptly withdraw all persons to the surface.

(b) The above procedures do not apply to main fan failure if standby main fans or auxiliary power sources have begun operation without interruption of normal ventilation and the air quantity delivered is equal to the air quantity delivered by the main fan during normal operation.

§ 57.34207 Reentry after shutdown of main fans.

When the main fan or fans have been stopped or if a total failure of ventilation has occurred while all persons are out of the mine, only competent persons shall be allowed underground to examine the mine or to make necessary ventilation changes. Other persons may reenter the mine only after the main fans have been operational for at least 30 minutes, and the mine atmosphere has been tested and determined to be free of 0.5 percent or more methane.

§ 57.34208 Booster fans.

(a) Booster fans shall be permissible and be:

(1) Deenergized automatically when methane levels reach 0.5 percent at the fan;

(2) Provided with an automatic signal device to give warning or alarm when the air volume delivered by the fan stops or slows. The signal device shall be located so that it can be seen or heard by a responsible person designated by the mine operator at all times when persons are underground;

(3) Equipped with a device that automatically deenergizes the power in the affected workings should the fan slow or stop; and

(4) Equipped with two sets of controls capable of starting and stopping the fan. One set shall be located at the fan and a second set shall be located at another accessible remote location.

(b) Booster fan installations, except for booster fans installed in ducts, shall be:

(1) Provided with doors which open automatically when all fans in the installation stop. The doors shall be large enough so that when open at least 50 percent of the airway is provided for air flow; and

(2) Provided with an air lock when passage through the fan bulkhead is necessary.

§ 57.34209 Auxiliary fans.

Electric auxiliary fans, including free standing fans, shall be permissible and operated so that recirculation is minimized. Tests for methane shall be made at auxiliary fans before they are started. Auxiliary fans shall not be operated when air passing over or through them contains 0.5 percent or more methane. Auxiliary fans shall not be used to ventilate any working place during the interruption of normal mine ventilation. If an auxiliary fan stops or fails, electrical equipment in the affected area shall be deenergized at the power source and diesel equipment shall be shut off or removed from the affected area until ventilation is restored. Permissible diffuser fans that are an integral part of continuous mining machines may be used.

§ 57.34210 Changes in ventilation.

(a) Changes in ventilation which materially affect the main air current or any split thereof and which may affect the safety of persons in the mine shall be made only when the mine is idle.

(b) Only those persons engaged in making such changes shall be permitted in the mine during the change.

(c) Power shall be deenergized in areas affected by the change before such change is made. Power shall not be restored until the results of the change have been determined and a competent person has examined affected working places for methane.

§ 57.34211 Actions at 0.5 percent methane.

If 0.5 percent or more methane is present in the mine atmosphere, ventilation changes shall be made immediately so that methane is reduced to less than 0.5 percent. Until such changes are achieved, all electrical power and diesel equipment shall be deenergized and no other work shall be permitted in the affected area.

§ 57.34212 Actions at 1.0 percent methane.

If 1.0 percent or more methane is present in the mine atmosphere, all persons other than competent persons necessary to make ventilation changes shall be withdrawn from the affected area. Other persons shall not reenter affected areas until the methane is reduced to less than 0.5 percent.

§ 57.34213 Air passing abandoned or unsealed areas.

Air that has passed by or through abandoned or unsealed inactive areas and contains 0.25 percent or more methane shall:

(a) Be coursed directly to a return airway;

(b) Be examined daily for methane by a competent person; and

(c) Not be used to ventilate any working place in the mine.

§ 57.34214 Abandoned areas.

Abandoned areas shall be:

(a) Sealed; or

(b) Ventilated, barricaded and posted against unauthorized entry.

§ 57.34215 Seals and stoppings.

(a) All seals, and those stoppings that separate main intake from main return airways, shall be of substantial construction.

(b) Where seals and stoppings are constructed of combustible materials or foam-type blocks, exposed surfaces on both sides shall be coated with at least one-half inch of gunite, one-inch of shotcrete, or other coatings with equivalent fire resistance. Such seals and stoppings shall be provided with vertical supports or braces (stulls) which extend from floor to roof on both sides and are installed on not more than five-foot centers. Foam-type blocks used for seal or stopping construction shall be solid and at least 20 inches thick.

(c) At least one seal of every sealed area shall be fitted with a pipe and valve or pipe cap to permit sampling behind seals.

(d) Areas surrounding seals or stoppings constructed of combustible or foam-type materials shall be kept free of sources of heat, including power cables, and combustible materials for a distance of at least 25 feet.

§ 57.34217 Line brattice and fan ducting.

Line brattice, fans with ducting, or other equivalent means shall be used to provide positive air flow across each working face.

§ 57.34218 Brattice cloth and ducting flame resistance.

Brattice cloth and ducting shall have a flame spread rating of 25 or less.

§ 57.34219 Minimum air flow.

The average air velocity in the last open crosscut in pairs or sets of developing entries, or through other ventilation openings nearest the face, shall be at least 40 feet per minute. The volume of air ventilating each face at a working place shall be at least 20 feet per minute multiplied by the open cross-sectional area (in square feet) of the entry. If such quantities of air cannot be maintained, all persons shall be immediately withdrawn from affected working areas, and all electrical power and diesel equipment shall be deenergized.

§ 57.34222 Overcast and undercast construction.

Overcasts and undercasts shall be:

(a) Constructed to minimize leakage;

(b) Of substantial construction;

(c) Constructed either of noncombustible materials or exposed surfaces coated with at least one-inch of shotcrete or one-half inch of gunite or other material with equivalent fire resistance; and

(d) Kept clear of obstructions.

§ 57.34223 Preshift examination.

(a) Prior to the beginning of a shift following an idle shift, a competent person shall test the mine atmosphere of all working places for methane within 3 hours before persons other than examiners enter the mine.

(b) When one shift immediately follows another, a competent person on each shift shall test the mine atmosphere of each working place for methane before work is started on that shift.

(c) At least once during each 24-hour period a competent person shall test the mine atmosphere of areas other than those examined in paragraphs (a) and (b) of this section for methane.

§ 57.34224 Permissible testing devices.

(a) Portable, battery-powered, self-contained devices used for measuring methane, other gases, and contaminants in mine air shall be approved as permissible in accordance with 30 CFR Parts 18, 22, 27, and 29, as appropriate. Such devices shall be maintained in accordance with manufacturers' instructions, or an equivalent maintenance and calibration procedure.

(b) Permissible flame safety lamps shall not be used to test for methane except as a supplementary device.

(c) If electrically-powered remote sensing devices are used, that portion of the instrument located in return air or other places where combustible gases may be present shall meet the requirements of 30 CFR Parts 18, 22, 23, 27, and 29, as appropriate.

(d) If air samples are delivered to remote analytical devices through sampling tubes, such tubes shall be

provided with in-line flame arrestors. Flame arrestors shall be located upstream from pumping equipment and analytical instruments. Pumping equipment and analytical instruments shall be located in intake air.

§ 57.34225 Weekly testing.

(a) At least once every 7 days, a competent person shall test for methane in the mine atmosphere and carbon monoxide at the following locations:

(1) In the return of each split where it enters the main return;

(2) Adjacent to retreat areas if accessible;

(3) At seals;

(4) In the main return;

(5) In at least one entry of each intake and return;

(6) In idle workings; and

(7) In the return air from unsealed abandoned workings.

(b) Where such examinations disclose hazardous conditions, affected persons shall be informed and such conditions shall be promptly corrected.

(c) Certification of examinations shall be made by signature and date. Certifications shall be kept for at least one year, and made available to an authorized representative of the Secretary.

§ 57.34226 Mechanical ventilation.

All mines shall be ventilated mechanically.

§ 57.34227 Doors on main fans.

In mines ventilated by a combination of multiple main fans, each main fan installation shall be equipped with noncombustible doors. Such doors shall automatically close to prevent air reversal through the fan. The doors shall be located so that they are not in direct line with forces which could come out of the mine.

Equipment

§ 57.34301 Mine-wide monitoring system.

(a) A mine-wide monitoring system shall be installed to provide surface recordings of methane concentrations in the mine atmosphere from underground locations. Components of the system shall meet the requirements of 30 CFR Parts 18, 22, 23, and 27, as appropriate; or be intrinsically safe or explosion-proof.

(b) Mine-wide monitoring systems shall:

(1) Give audible and visible warnings on the surface and underground when methane at any sensor reaches 0.25 percent or more. Warning devices shall be located so that they can be seen and heard by a responsible person designated by the mine operator.

(2) Automatically deenergize power underground when methane at any sensor reaches 0.5 percent; and

(3) Automatically deenergize the power underground when power to the sensor is interrupted. Timing devices are permitted to avoid nuisance tripping for periods not to exceed 30 seconds.

(c) Recordings of methane shall be retained for at least one year, and shall be available to an authorized representative of the Secretary.

(d) At least once every two weeks the systems shall be checked with a known mixture of 0.5 percent methane, and calibrated if necessary. Certification of the calibration tests shall be made by signature and date. Certifications of the calibration tests shall be kept for at least one year, and shall be made available to an authorized representative of the Secretary.

§ 57.34302 Jacketed cables.

Flame-resistant jacketed cables, accepted in accordance with 30 CFR 18.64, shall be used to supply electric power to permissible equipment, and to electrical equipment located where methane from an active face may pass over operating equipment.

§ 57.34303 Permissible equipment.

(a) Only permissible equipment shall be used at or within 100 feet of a face or bench being mined, excepted that nonpermissible front-end loaders and haulage trucks equipped with methane monitors may be used at a face or bench after blasting.

(d) Methane tests shall be made immediately before front-end loaders and haulage trucks are used at a face or bench.

(c) Methane monitors on front-end loaders and haulage trucks shall give alarm if 0.25 percent or more methane is detected.

(d) Nonpermissible stationary equipment shall be equipped with a methane monitor that will deenergize the equipment when 0.25 percent or more methane is detected unless such equipment is located in intake air or within 50 feet downstream from a minewide monitor sensor.

§ 57.34304 Distribution boxes.

Distribution boxes containing short circuit protection for trailing cables of permissible equipment shall be certified as explosion-proof in accordance with 30 CFR Part 18.

§ 57.34305 Methane monitors.

Methane monitoring devices (methane monitors) shall be installed on continuous mining machines, bench and face drills, undercutting machines, and longwall mining systems. Such monitors shall be permissible in accordance with 30 CFR Part 27, except that the monitors shall give warning at 0.5 percent methane and automatically deenergize the equipment and prevent starting when methane levels reach 1.0 percent or more, and when power to the sensor is interrupted. The sensing unit of the monitors shall be positioned as close to the face as practical.

Illumination

§ 57.34501 Personal electric lamps.

Electric lamps which provide personal illumination shall be permissible in accordance with 30 CFR Parts 19 and 20, as appropriate.

Explosives

§ 57.34601 Blasting from the surface.

(a) All development, production, and bench rounds shall be initiated electrically from the surface after all persons are out of the mine. Persons shall not reenter the mine until ventilating air has passed over the blast area and through the mine-wide monitoring sensors. If the system indicates that methane in the mine is less than 0.5 percent, persons may enter the mine, and all places blasted shall be tested for methane by a competent person before work is started. Vehicles used for transportation when conducting these tests shall be permissible. If the monitoring system indicates the presence of methane in excess of 0.5 percent, persons shall not reenter the mine until the mine has been examined by a competent person and is free of methane.

(b) The mine shall be ventilated for at least 30 minutes after blasting before persons enter the mine.

§ 57.34602 Secondary blasting.

Prior to secondary blasting, tests for methane shall be made in the mine atmosphere at blast sites by a competent person. Secondary blasts shall not be initiated where 0.25 percent or more methane is present.

§ 57.34603 Explosive materials and blasting units.

Explosive materials and blasting units shall not be used until the mine operator has received written permission from the appropriate district manager for each explosive material and blasting unit to be used. In granting permission, the district manager will be guided by such factors as the oxygen balance and detonation temperatures, the conditions under which blasting is to be performed, and the applicability to the material mined. The mine operator shall comply

with all conditions and procedures incorporated into an approval of an explosive material or blasting unit.

Subcategory II-B

Scope

§ 57.35000 Scope.

Category II mines are domal salt mines where the history of the mine or the geological area indicates the occurrence of or the potential for outbursts. Category II is divided into Subcategories II-A and II-B. Subcategory II-B mines are domal salt mines where an outburst has not occurred but which have the potential for an outburst based on the history of the mine or geological area in which the mine is located. The safety standards for this subcategory follow:

Ventilation

§ 57.35201 Main fans.

Main fans shall be:

(a) Installed on the surface;

(b) Installed in noncombustible housings provided with noncombustible air ducts;

(c) Driven either by electric motors or by internal combustion engines. When an internal combustion engine is used to power a main fan or as a standby engine, the engine shall be:

(1) Installed in a noncombustible housing;

(2) Installed so as to be protected from a possible fuel supply fire or explosion; and

(3) Installed so that the engine and exhaust are located out of direct line with the forward and reverse airstream provided by the fan. Engine exhaust gases shall be vented to the atmosphere so that exhaust gases cannot contaminate mine intake air.

(d) Offset not less than 15 feet from the nearest side of the mine opening to which the fan is connected. The fan installation shall be equipped with explosion-doors or a weak-wall located in direct line with possible explosion forces. The area of the doors or weak-wall shall be least equivalent to the cross-sectional area of the airway;

(e) Provided with an automatic signal device to give audible or visual warning or alarm when the air volume delivered by the fan slows or stops. The signal device shall be so located that it can be seen or heard by a responsible person designated by the mine operator at all times when persons are underground;

(f) Approved as permissible or—

(1) All electrical equipment and cables located within or exposed to the forward and reverse airstream shall be approved, certified, or accepted by MSHA in accordance with 30 CFR Part 18;

(2) Drive belts and nonmetallic fan blades shall be constructed of static conducting material; and

(3) Fan blades shall be constructed of nonsparking materials. Aluminum alloy fan blades shall not contain more than 0.5 percent magnesium; and

(g) This standard shall apply only to new mines commencing operation after the effective date of this standard.

§ 57.35202 Permissible testing devices.

(a) Portable, battery-powered, self-contained devices used for measuring methane, other gases, and contaminants in mine air shall be approval as permissible in accordance with 20 CFR Parts 18, 22, 27, and 29, as appropriate. Such devices shall be maintained in accordance with manufacturers' instructions, or an equivalent maintenance and calibration procedure.

(b) Permissible flame safety lamps shall not be used to test for methane except as a supplementary device.

(c) If electrically-powered remote sensing devices are used, that portion of the instrument located in return air or other places where combustible gases may be present shall meet the requirements of 30 CFR Parts 18, 22, 23, 27, and 29, as appropriate.

(d) If air samples are delivered to remote analytical devices through sampling tubes, such tubes shall be provided with in-line flame arrestors. Flame arrestor shall be located upstream from pumping equipment and analytical instruments. Pumping equipment and analytical instruments shall be located in intake air.

§ 57.35207 Separation of intake and return air.

The main intake and return air currents in mines shall be in separate shafts, slopes and drifts, except:

(a) Where multiple shafts are used for ventilation and a single shaft contains a curtain wall or partition for separation of air currents. Such wall or partition shall be constructed of reinforced concrete or equivalent, and provided with pressure-relief devices; or

(b) During development of openings to the surface:

(1) Ventilation tubing may be used for separation of main air currents in the same opening. Flexible ventilation tubing shall have a flame spread rating of 25 or less and shall not exceed 250 feet in length. Rigid ventilation tubing shall be constructed of noncombustible material.

(2) Only development related to making a primary ventilation connection may be performed beyond 250 feet of the shaft.

§ 57.35213 Actions at 0.25 percent methane.

If 0.25 percent or more methane is present in the mine atomsphere, ventilation changes shall be made to reduce the methane, and MSHA shall be notified immediately.

§ 57.35214 Actions at 0.5 percent methane.

If 0.5 percent or more methane is present in the mine atmosphere, ventilation changes shall be made immediately so that the methane is reduced to less than 0.5 percent. Until such changes are achieved, electrical power shall be deenergized and diesel equipment shall be shut off or immediately removed from the area. No other work shall be permitted in the affected area.

§ 57.35215 Actions at 1.0 percent methane.

If 1.0 percent or more methane is present in the mine atmosphere, all persons other than competent persons necessary to make corrections shall be withdrawn from the affected area until the methane is reducted to less than 0.5 percent.

§ 57.35216 Actions at 2.0 percent methane.

If 2.0 percent or more methane is present in the mine atmosphere, all persons other than competent persons necessary to make ventilation changes shall be withdrawn from the mine until the methane is reduced to less than 0.5 percent.

§ 57.35229 Mechanical ventilation.

All mines shall be ventilated mechanically.

Explosives

§ 57.35601 Blasting from the surface.

(a) All shots and rounds shall be initiated electrically.

(b) All development, production, and bench rounds shall be initiated from the surface after all persons are out of the mine. Persons shall not be allowed to reenter the mine until a competent person has examined the places blasted for methane.

Category III

Scope

§ 57.36000 Scope.

Category III mines are (a) mines in which noncombustible ore is extracted and which either continuously liberate methane or have the potential to

continuously liberate methane based on the history of the mine or the geological area in which the mine is located, or (b) mines which intermittently liberate explosive mixtures of methane. The safety standards for this category are as follows.

Fire Prevention and Control

§ 57.36101 Smoking.

Persons shall not smoke or carry smoking materials, matches, or lighters underground. The operator shall institute a reasonable program to assure that persons entering the mine do not carry such items.

§ 57.36102 Open flame.

Open flames shall not be permitted underground except for welding, cutting, and other maintenance operations. When using open flames in other than fresh air, tests shall be conducted by a competent person in places where methane may enter the air current before work is started and at intervals not to exceed 5 minutes. Continuous methane monitors with alarms may be used as an alternative to the testing requirements of this standard. Open flames shall not be used in atmospheres containing 1.0 percent or more methane.

Ventilation

§ 57.36201 Main fans.

Main fans shall be:

(a) Installed on the surface;

(b) Installed in noncombustible housings provided with noncombustible air ducts;

(c) Driven either by electric motors or by internal combustion engines. When an internal combustion engine is used to power a main fan or as a standby engine, the engine shall be:

(1) Installed in a noncombustible housing;

(2) Installed so as to be protected from a possible fuel supply fire or explosion; and

(3) Installed so that the engine and exhaust are located out of direct line with the forward and reverse airstream provide by the fan. Engine exhaust gases shall be vented to the atmosphere so that exhaust cannot contaminate mine intake air.

(d) Offset not less than 15 feet from the nearest side of the mine opening to which the fan is connected. The fan installation shall be equipped with explosion-doors or a weak-wall located in direct line with possible explosion forces. The area of the doors or weak-wall shall be at least equivalent to the cross-sectional area of the airway;

(e) Provided with an automatic signal device to give warning or alarm when the air volume delivered by the fan slows or stops.

The signal device shall be located so that it can be seen or heard by a responsible person designated by the mine operator at all times when persons are underground; and

(f) Approved as permissible or—

(1) All electrical equipment and cables located within or exposed to the forward and reverse airstream shall be approved, certified, or accepted by MSHA in accordance with 30 CFR Part 18;

(2) Drive belts and nonmetallic fan blades shall be constructed of static conducting material; and

(3) Fan blades shall be constructed of nonsparking materials. Aluminum alloy fan blades shall not contain more than 0.5 percent magnesium.

§ 57.36202 Main fan operation and inspection.

Main fans shall be:

(a) Operated continuously while persons are underground except as provided in §§ 57.36205 and 57.36213;

(b) Provided with pressure-recording gages. Gage charts shall be changed after completing one revolution; and

(c) Inspected daily while operating. Certification of the inspections shall be made by signature and date. Certifications and gage charts shall be retained for at least one year, and shall be made available to an authorized representative of the Secretary.

§ 57.36203 Separation of intake and return air.

The main intake and return air currents in mines shall be in separate shafts, slopes and drifts, except:

(a) Where multiple shafts are used for ventilation and a single shaft contains a curtain wall or partition for separation of air currents. Such wall or partition shall be constructed of reinforced concrete or equivalent, and provided with pressure-relief devices; or

(b) During development of openings to the surface:

(1) Ventilation tubing may be used for separation of main air currents in the same opening. Flexible ventilation tubing shall have a flame spread rating of 25 or less and shall not exceed 250 feet in length. Rigid ventilation tubing shall be constructed of noncombustible material.

(2) Only development related to making a primary ventilation connection may be performed beyond 250 feet of the shaft.

§ 57.36205 Main ventilation failure.

(a) At mines where a single main fan is used and such fan stops, or where multiple main fans are used and all such fans stop, or where there has been a total failure of ventilation other than the main fan, the operator shall take the following actions:

(1) Deenergize all electrical power and diesel equipment in all working places, and

(2) If the stoppage lasts 30 minutes or more, promptly withdraw all persons to the surface.

(b) The above procedures do not apply to main fan failure if standby main fans or auxiliary power sources have begun operation without interruption of normal ventilation and the air quantity delivered is equal to the air quantity delivered by the main fan during normal operation.

§ 57.36207 Reentry after shutdown of main fans.

When the main fan or fans have been stopped or if a total failure of ventilation has occurred while all persons are out of the mine, only competent persons shall be allowed underground to examine the mine or to make necessary ventilation changes. Other persons may reenter the mine only after the main fans have been operational for at least 30 minutes, and the mine atmosphere has been tested and determined to be free of 1.0 percent or more methane.

§ 57.36208 Booster fans.

(a) Booster fans shall be permissible and be:

(1) Deenergized automatically when methane levels reach 1.0 percent at the fan;

(2) Provided with an automatic signal device to give warning or alarm when the air volume delivered by the fan stops or slows. The signal device shall be located so that it can be seen or heard by a responsible person designated by the mine operator at all times when persons are underground;

(3) Equipped with a device that automatically deenergizes the power in the affected workings should the fan slow or stop; and

(4) Equipped with two sets of controls capable of starting and stopping the fan. One set shall be located at the fan and a second set shall be located at another accessible remote location.

(b) Booster fan installations, except for booster fans installed in ducts, shall be:

(1) Provided with doors which open automatically when all fans in the installation stop. The doors shall be large enough so that when open at least 50 percent of the airway is available for air flow; and

(2) Provided with an air lock when passage through the fan bulkhead is necessary.

§ 57.36209 Auxiliary fans.

Electric auxiliary fans shall be permissible and operated so that recirculation is minimized. Tests for methane shall be made at auxiliary fans before they are started. Auxiliary fans shall not be operated when air passing over or through them contains 1.0 percent or more methane. Auxiliary fans shall not be used to ventilate any working place during the interruption of normal mine ventilation. If an auxiliary fans stops or fails, electrical equipment in the affected area shall be deenergized at the power source and diesel equipment shall be shut off or removed from the affected area until ventilation is restored. Permissible diffuser fans that are an integral part of continuous mining machines may be used.

§ 57.36210 Minimum air flow.

The quantity of air coursed through the last open crosscut in pairs or sets of entries, or through other ventilation openings nearest the face, shall be at least 6,000 cubic feet per minute, or 9,000 cubic feet per minute in longwall and continuous miner sections. The quantity of air across each face at a working place shall be at least 2,000 cubic feet per minute. If such quantities of air cannot be maintained, all persons shall be immediately withdrawn from affected working areas, and all electrical power and diesel equipment shall be deenergized.

§ 57.36211 Weekly testing.

(a) At least once every 7 days, a competent person shall test for methane in the mine atmosphere and carbon monoxide at the following locations:

(1) In the return of each split where it enters the main return;

(2) Adjacent to retreat areas if accessible;

(3) At seals;

(4) In the main return;

(5) In at least one entry of each intake and return;

(6) In idle workings; and

(7) In the return air from unsealed abandoned workings.

(b) At least every 7 days, a competent person shall measure the volume of air at the following locations:

(1) Entering the main intakes;

(2) Leaving the main returns;

(3) Entering from each main split;

(4) Returning from each main split; and

(5) In the last open crosscuts or other ventilation openings nearest the active faces.

(c) Where such examinations disclose hazardous conditions, affected persons shall be informed and such conditions shall be promptly corrected.

(d) Certification of examinations shall be made by signature and date. Certifications shall be retained for at least one year, and made available to an authorized representative of the Secretary.

§ 57.36212 Installation of support equipment.

Battery charging stations, compressor stations, pump stations, and transformer stations shall be installed in intake air at locations which are sufficiently ventilated to prevent the build-up of methane and are free of combustible materials.

§ 57.36213 Changes in ventilation.

(a) Changes in ventilation which materially affect the main air current or any split thereof and which may affect the safety of persons in the mine shall be made only when the mine is idle.

(b) Only those persons engaged in making such changes shall be permitted in the mine during the change.

(c) Power shall be deenergized in areas affected by the change before such change is made. Power shall not be restored until the results of the change have been determined and a competent person has examined affected working places for methane.

§ 57.36214 Actions at 1.0 percent methane.

If 1.0 percent or more methane is present in the mine atmosphere, ventilation changes shall be made immediately so that methane is reduced to less than 1.0 percent. Until such changes are achieved, all electrical power and diesel equipment shall be deenergized and no other work shall be permitted in the affected area.

§ 57.36215 Actions at 1.5 to 2.5 percent methane.

(a) If 1.5 percent or more methane is present in the mine atmosphere, all persons other than competent persons necessary to make ventilation changes shall be withdrawn from the affected area. Other persons shall not reenter affected areas until the methane is reduced to less than 1.0 percent.

(b) The methane content in the mine atmosphere in bleeder systems shall not exceed 2.0 percent at the point where a bleeder split enters a main return split. If the methane content exceeds 2.0 percent immediate corrective actions shall be taken. No other work shall be permitted upstream from problem areas on ventilation splits which contribute return air to the bleeder system until methane has been reduced to less than 2.0 percent. If methane has not been reduced to less than 2.0 percent within 30 minutes, or if methane levels reach 2.5 percent or more, all persons other than competent persons necessary to take corrective action shall be immediately withdrawn from affected areas. Other persons shall not reenter affected areas until methane has been reduced to less than 2.0 percent.

§ 57.36216 Air passing abandoned or unsealed area.

Air that has passed by or through abandoned or unsealed inactive areas and contains 0.25 percent or more methane shall:

(a) Be coursed directly to a return airway;

(b) Be tested daily for methane by a competent person; and

(c) Not be used to ventilate any working place in the mine.

§ 57.36217 Abandoned areas.

Abandoned areas shall be:

(a) Sealed; or

(b) Ventilated, barricaded and posted against unauthorized entry.

§ 57.36218 Seals and stoppings.

(a) All seals, and those stoppings that separate main intake from main return airways, shall be of substantial construction.

(b) Where seals and stoppings are constructed of combustible materials or foam-type blocks, exposed surfaces on both sides shall be coated with at least one-half inch of gunite, one-inch of shotcrete, or other coatings with equivalent fire resistance. Such seals and stoppings shall be provided with vertical supports or braces (stulls) which extend from floor to roof on both sides and are installed on not more than five-foot centers. Foam-type blocks used for seal or stopping construction shall be solid and at least 20 inches thick.

(c) At least one seal of every sealed area shall be fitted with a pipe and valve or pipe cap to permit sampling behind seals.

(d) Areas surrounding seals or stoppings constucted of combustible or foam-type materials shall be keep free of sources of heat, including power cables, and combustible materials for a distance of at least 25 feet.

§ 57.36220 Line brattice and fan ducting.

Line brattice, fans with ducting, or other equivalent means shall be used to provide positive air flow across each working face, except during initial continuous miner cuts and initial rounds blasted. Line brattice or ducting is not required during pillar extraction.

§ 57.36221 Brattice cloth and ducting flame resistance.

Brattice cloth and ducting shall have a flame spread rating of 25 or less.

§ 57.36222 Crosscuts before abandonment.

Crosscuts shall be provided where practicable at or within 18 feet of faces before workings are abandoned in unsealed areas of the mine. When crosscuts are not practicable, line brattice or other positive means of ventilating the faces shall be provided.

§ 57.36224 Air locks, overcasts and undercasts.

The main ventilation shall be arranged by means of air locks, overcasts, or undercasts so that passage of trips or persons does not cause interruptions of air currents. Where air locks are impracticable, single doors may be used if—

(a) The doors are attended constantly while areas affected by the doors are being worked; or

(b) The doors are self-closing.

§ 57.36225 Air doors.

Doors which control the flow of air by being closed shall be kept closed, except when persons or equipment are passing through. Doors shall be plainly marked to indicate whether they are to be closed or open for ventilation control.

§ 57.36226 Overcast and undercast construction.

Overcasts and undercasts shall be—

(a) Constructed to minimize leakage;

(b) Of substantial construction;

(c) Constructed either of noncombustible materials or exposed surfaces coated with at least one inch of shotcrete or one-half inch of gunite or other material with equivalent fire resistance; and

(d) Kept clear of obstructions.

§ 57.36227 Preshift examination.

(a) Prior to the beginning of a shift following an idle shift, a competent person shall test the mine atmosphere of all working places for methane within 3 hours before persons other than examiners enter the mine.

(b) When one shift immediately follows another, a competent person on each shift shall test the mine atmosphere of each working place for methane before work is started on that shift.

(c) At least once during each 24-hour period a competent person shall test the mine atmosphere of areas other than those examined in paragraphs (a) and (b) above for methane.

§ 57.36228 Permissible testing devices.

(a) Portable, battery-powered, self-contained devices used for measuring methane, other gases, and contaminants in mine air shall be approved as permissible in accordance with 30 CFR Parts 18, 22, 27, and 29, as appropriate. Such devices shall be maintained in accordance with manufacturers' instructions, or an equivalent maintenance and calibration procedure.

(b) Permissible flame safety lamps shall not be used to test for methane except as a supplementary device.

(c) If electrically-powered remote sensing devices are used, that portion of the instrument located in return air or other places where combustible gases may be present shall meet the requirements of 30 CFR Parts 18, 22, 23, 27, and 29, as appropriate.

(d) If air samples are delivered to remote analytical devices through sampling tubes, such tubes shall be provided with in-line flame arrestors. Flame arrestors shall be located upstream from pumping equipment and analytical instruments. Pumping equipment and analytical instruments shall be located in intake air.

§ 57.36229 Mechanical ventilation.

All mines shall be ventilated mechanically.

§ 57.36230 Air flow in intake and return air courses.

Airflow shall be maintained in all intake and return air courses of a mine. When multiple-main fans are used, the system shall not develop neutral areas (areas without perceptible air movement).

§ 57.36231 Doors on main fans.

In mines ventilated by a combination of multiple main fans, each main fan installation shall be equipped with noncombustible doors. Such doors shall automatically close to prevent air reversal through the fan. The doors shall be located so that they are not in direct line with forces which could come out of the mine.

Equipment

§ 57.36302 Permissible equipment.

All electrical and diesel-powered equipment used in or beyond the last open crosscut shall be permissible. Equipment shall not be operated in atmospheres containing 1.0 percent or more methane. Nonpermissible electrical and diesel-powered equipment shall be kept at least 150 feet from pillar recovery workings, longwall faces and shortwall faces.

§ 57.36303 Methane monitors.

Methane monitoring devices (methane monitors) shall be installed on continuous mining machines and longwall mining systems. Such monitors shall be permissible in accordance with 30 CFR Part 27, except that the monitors shall give warning at 1.0 percent methane and automatically deenergize the equipment and prevent starting when methane levels reach 1.5 percent or more, and when power to the sensor is interrupted. The sensing unit of the monitors shall be positioned as close to the face as practical.

Illumination

§57.36501 Personal electric lamps.

Electric lamps which provide personal illumination shall be permissible in accordance with 30 CFR Parts 19 or 20, as appropriate.

Explosives

§ 57.36601 Explosive materials and blasting units.

Explosive materials and blasting units shall not be used until the mine operator has received written permission from the appropriate district manager for each explosive material and blasting unit to be used. In granting permission, the district manager will be guided by such factors as the oxygen balance and detonation temperature, the conditions under which blasting is to be performed, and the applicability to the material mined. The mine operator shall comply with all conditions and procedures incorporated into an approval of an explosive material or blasting unit.

§ 57.36603 Blasting on shift.

(a) All rounds shall be initiated electrically.

(b) When blasting on shift, tests for methane shall be made in the mine atmosphere by a competent person before and after each blast and before other work is performed. Blasting shall not be done where 1.0 percent or more methane is present.

Category IV

Scope

§ 57.37000 Scope

Category IV mines are mines in which noncombustible ore is extracted and which either intermittently liberate methane in nonexplosive mixtures or have the potential to do so based on the history of the mine or the geological area in which the mine is located. The safety standards for this category follow.

Fire Prevention and Control

§ 57.37101 Smoking and open flame.

Smoking or open flame shall not be permitted in a face, raise, or heading until tests have been conducted in accordance with § 57.37204 and the area is free of methane.

Ventilation

§ 57.37201 Main fans.

Main fans shall be:

(a) Installed on the surface;

(b) Installed in a noncombustible housings provided with noncombustible air ducts;

(c) Driven either by electric motors or by internal combustion engines. When an internal combustion engine is used to power a main fan or as a standby engine, the engine shall be:

(1) Installed in a noncombustion housing;

(2) Installed so as to be protected from a possible fuel supply fire or explosion; and

(3) Installed so that the engine and exhaust are located out of direct line with the forward and reverse airstream provided by the fan. Engine exhaust gases shall be vented to the atmosphere so that exhaust cannot contaminate mine intake air.

(d) Offset not less than 15 feet from the nearest side of the mine opening to which the fan is connected. The fan installation shall be equipped with explosion-doors or a weak-wall located in direct line with possible explosion forces. The area of the doors or weak-wall shall be at least equivalent to the cross-sectonal area of the airway;

(e) Provided with an automatic signal device to give warning or alarm when the air volume delivered by the fan slows or stops. The signal device shall be located so that it can be seen or heard by a responsible person designated by the mine operator at all times when persons are underground;

(f) Approved as permissible or—

(1) All electrical equipment and cables located within or exposed to the forward and reverse airstream shall be approved, certified, or accepted by MSHA in accordance with 30 CFR Part 18;

(2) Drive belts and nonmetallic fan blades shall be constructed of static conducting material; and

(3) Fan blades shall be constructed of nonsparking materials. Aluminum alloy fan blades shall not contain more than 0.5 percent magnesium; and

(g) This standard applies only to new mines commencing opeation after the effective date of this standard.

§ 57.37202 Mechanical ventilation.

All mines shall be ventilaed mechanically.

§ 57.37203 Permissible testing devices.

(a) Portable, battery-powered, self-contained devices used for measuring methane, other gases, and contaminants in mine air shall be approved as permissible in accordance with 30 CFR Parts 18, 22, 27, and 29, as appropriate. Such devices shall be maintained in accordance with manufacturers' instruction, or an equivalent maintenance and calibration procedure.

(b) Permissible flame safety lamps shall not be used to test for methane except as a supplementary device.

(c) If electrically-powered remote sensing devices are used, that portion of the instrument located in return air or other places where combustible gases may be present shall meet the requirements of 30 CFR Parts 18, 22, 23, 27, and 29, as appropriate.

(d) If air samples are delivered to remote analytical devices through sampling tubes, such tubes shall be provided with in-line flame arrestors. Flame arrestors shall be located upstream from pumping equipment and analytical instruments. Pumping equipment and analytical instruments shall be located in intake air.

§ 57.37204 Testing for methane.

Tests for methane shall be conducted in the mine atmosphere by a competent person:

(a) At least once each shift prior to starting work in each face, raise, or heading; and

(b) At the time of gas release from boreholes into the mine atmosphere.

§ 57.37205 Actions at 0.5 percent methane.

If 0.5 percent or more methane is present in the mine atmosphere, ventilation changes shall be made immediately so that the methane is reduced to less than 0.5 percent. Until such changes are achieved, electrical power shall be deenergized and diesel equipment shall be shut off or immediately removed from the area. No other work shall be permitted in the affected area.

§ 57.37206 Actions at 1.0 percent methane.

If 1.0 percent or more methane is present in the mine atmosphere, all persons other than competent persons necessary to make corrections shall be withdrawn from the affected area until the methane is reduced to less than 0.5 percent.

§ 57.37207 Actions at 2.0 percent methane.

If 2.0 percent or more methane is present in the mine atmosphere, all persons other than competent persons necessary to make ventilation changes shall be withdrawn from the mine until the methane is reduced to less than 0.5 percent. MSHA shall be notified immediately.

Illumination

§ 57.37501 Personal electric lamps.

Electric lamps which provide personal illumination shall be permissible in accordance with 30 CFR Parts 19 or 20, as appropriate.

Category V–A·

Scope

§ 57.38000 Scope.

Category V mines are petroleum mines that operate within or drill into an oil reservoir. Category V is divided into Subcategories V–A and V–B. Subcategory V–A mines are petroleum mines that operate entirely or partially within an oil reservoir and petroleum mines in which:

(a) A concentration of 0.25 percent or more methane has been detected by air analysis in the mine atmosphere; or

(b) An ignition of methane has occurred.

The safety standards for this subcategory follow.

Fire Prevention and Control

§ 57.38101 Smoking.

Persons shall not smoke or carry smoking material, matches, or lighters underground. The operator shall institute a reasonable program to assure that persons entering the mine do not carry such items.

§ 57.38102 Open flame.

Open flames shall not be permitted underground except for welding, cutting, and other maintenance operations. When using open flames in other than fresh air, tests shall be conducted by a competent person in places where methane may enter the air current before starting work and at intervals not to exceed 5 minutes. Continuous methane monitors with alarms may be used as an alternative to the testing requirements of this standard. Open flames shall not be used in atmospheres containing 1.0 percent or more methane.

Ventilation

§ 57.38201 Main fans.

Main fans shall be:

(a) Installed on the surface;

(b) Installed in noncombustible housings provided with noncombustible air ducts;

(c) Driven either by electric motors or by internal combustion engines. When an internal combustion engine is used to power a main fan or as a standby engine, the engine shall be:

(1) Installed in a noncombustible housing;

(2) Installed so as to be protected from a possible fuel supply fire or explosion; and

(3) Installed so that the engine and exhaust are located out of direct line with the forward and reverse airstream provided by the fan. Engine exhaust gases shall be vented to the atmosphere so that exhaust cannot contaminate mine intake air.

(d) Offset not less than 15 feet from the nearest side of the mine opening to which the fan is connected. The fan installation shall be equipped with explosion-doors or a weak-wall located in direct line with possible explosion forces. The area of the doors or weak-wall shall be at least equivalent to the cross-sectional area of the airway;

(e) Provided with an automatic signal device to give warning or alarm when the air volume delivered by the fan slows or stops. The signal device shall be located so that it can be seen or heard by a responsible person designated by the mine operator at all times when persons are underground; and

(f) Approved as permissible or—

(1) All electrical equipment and cables located within or exposed to the forward and reverse airstream shall be approved, certified, or accepted by MSHA in accordance with 30 CFR Part 18;

(2) Drive belts and nonmetallic fan blades shall be constructed of static conducting material; and

(3) Fan blades shall be constructed of nonsparking materials. Aluminum alloy fan blades shall not contain more than 0.5 percent magnesium.

§ 57.38202 Main fan operation and inspection.

Main fans shall be:

(a) Operated continuously while persons are underground except as provided in §§57.38205 and 57.38213;

(b) Provided with pressure-recording gages. Gage charts shall be changed after completing one revolution; and

(c) Inspected daily while operating. Certification of the inspections shall be made by signature and date. Certifications and gage charts shall be retained for at least one year, and shall be made available to an authorized representative of the Secretary.

§ 57.38203 Separation of intake and return air.

The main intake and return air currents in mines shall be in separate shafts, slopes and drifts, except—

(a) Where multiple shafts are used for ventilation and a single shaft contains a curtain wall or partition for separation of air currents. Such wall or partition shall be constructed of reinforced concrete or equivalent, and provided with pressure-relief devices; or

(b) During development of openings to the surface—

(1) Ventilation tubing may be used for separation of main air currents in the same opening. Flexible ventilation tubing shall have a flame spread rating of 25 or less and shall not exceed 250 feet in length. Rigid ventilation tubing shall be constructed of noncombustible material.

(2) Only development related to making a primary ventilation connection may be performed beyond 250 feet of the shaft.

§ 57.38205 Main ventilation failure.

(a) At mines where a single main fan is used and such fan stops, or where multiple main fans are used and all such fans stop, or where there has been a total failure of ventilation other than the main fan, the operator shall take the following actions:

(1) Deenergize electrical power and diesel equipment in all working places, and

(2) If the stoppage lasts 30 minutes or more, promptly withdraw all persons to the surface.

(b) The above procedures do not apply to main fan failure if standby main fans or auxiliary power sources have begun operation without interruption of normal ventilation and the air quantity delivered is equal to the air quantity delivered by the main fan during normal operation.

§ 57.38207 Reentry after shutdown of main fans.

When the main fan or fans have been stopped or if a total failure of ventilation has occurred while all persons are out of the mine, only competent persons shall be allowed underground to examine the mine or to make necessary ventilation changes. Other persons may reenter the mine only after the main fans have been operational for at least 30 minutes, and the mine atmosphere has been tested and determined to be free of 1.0 percent or more methane.

§ 57.38208 Booster fans.

(a) Booster fans shall be permissible and be:

(1) Deenergized automatically when methane levels reach 1.0 percent at the fan;

(2) Provided with an automatic signal device to give warning or alarm when the air volume delivered by the fan stops or slows. The signal device shall be located so that it can be seen or heard by a responsible person designated by the mine operator at all times when persons are underground;

(3) Equipped with a device that automatically deenergizes the power in the affected workings should the fan slow or stop; and

(4) Equipped with two sets of controls capable of starting and stopping the fan. One set shall be located at the fan and a second set shall be located at another accessible remote location.

(b) Booster fan installations, except for booster fans installed in ducts, shall be:

(1) Provided with doors which open automatically when all fans in the installation stop. The doors shall be large enough so that when open at least 50 percent of the airway is available for air flow; and

(2) Provided with an air lock when passage through the fan bulkhead is necessary.

§ 57.38209 Auxiliary fans.

Electric auxiliary fans shall be permissible and operated so that recirculation is minimized. Tests for methane shall be made at auxiliary fans before they are started. Auxiliary fans shall not be operated when air passing over or through them contains 1.0 percent or more methane. Auxiliary fans shall not be used to ventilate any working place during the interruption of normal mine ventilation. If an auxiliary fan stops or fails, electrical equipment in the affected area shall be deenergized at the power source and diesel equipment shall be shut off or removed from the affected area until ventilation is restored. Permissible diffuser fans that are an integral part of continuous mining machines may be used.

§ 57.38210 Minimum air flow.

The air velocity in the last open crosscut in pairs or sets of entries, or through other ventilation openings nearest the face, shall be at least 40 feet per minute. The quantity of air ventilating each face at a working place shall be at least 20 feet per minute per square foot of face area.

§ 57.38211 Weekly testing.

(a) At least once every 7 days, a competent person shall test for methane

in the mine atmosphere and carbon monoxide at the following locations:

(1) In the return of each split where it enters the main return;

(2) Adjacent to retreat areas if accessible;

(3) At seals;

(4) In the main return;

(5) In at least one entry of each intake and return;

(6) In idle workings; and

(7) In the return air from unsealed abandoned workings.

(b) At least every 7 days, a competent person shall measure the volume of air at the following locations:

(1) Entering the main intakes;

(2) Leaving the main returns;

(3) Entering from each main split;

(4) Returning from each main split; and

(5) In the last open crosscuts or other ventilation openings nearest the active faces.

(c) Where such examinations disclose hazardous conditions, affected persons shall be informed and such conditions shall be promptly corrected.

(d) Certification of examinations shall be made by signature and date. Certifications shall be retained for at least one year, and made available to an authorized representative of the Secretary.

§ 57.38213 Changes in ventilation.

(a) Changes in ventilation which materially affect the main air current or any split thereof and which may affect the safety of persons in the mine shall be made only when the mine is idle.

(b) Only those persons engaged in making such changes shall be permitted in the mine during the change.

(c) Power shall be deenergized in the areas affected by the change before such change is made. Power shall not be restored until the results of the change have been determined and a competent person has examined affected working places for methane.

§ 57.38214 Actions at 1.0 percent methane.

If 1.0 percent or more methane is present in the mine atmosphere, ventilation changes shall be made immediately so that methane is reduced to less than 1.0 percent. Until such changes are achieved, electrical power shall be deenergized and diesel equipment shall be shut off or immediately removed from the area. No other work shall be permitted in affected areas.

§ 57.38215 Actions at 1.5 percent methane.

If 1.5 percent or more methane is present in the mine atmosphere, all persons other than competent persons necessary to make ventilation changes shall be withdrawn from the affected areas until the methane is reduced to less than 1.0 percent.

§ 57.38216 Air passing abandoned or unsealed areas.

Air that has passed by or through abandoned or unsealed inactive areas and contains 0.25 percent or more methane shall:

(a) Be coursed directly to a return airway;

(b) Be tested daily for methane by a competent person; and

(c) Not be used to ventilate any working place in the mine.

§ 57.38217 Abandoned areas.

Abandoned areas shall be:

(a) Sealed; or

(b) Ventilated, barricaded and posted against unauthorized entry.

§ 57.38218 Seals and stoppings.

(a) All seals, and those stoppings that separate main intake from main return airways, shall be of substantial construction.

(b) Where seals and stoppings are constructed of combustible materials or foam-type blocks, exposed surfaces on both sides shall be coated with at least one-half inch of gunite, one-inch of shotcrete, or other coatings with equivalent fire resistance. Such seals and stoppings shall be provided with vertical supports or braces (stulls) which extend from floor to roof on both sides and are installed on not more than five-foot centers. Foam-type blocks used for seal or stopping construction shall be solid and at least 20 inches thick.

(c) At least one seal of every sealed area shall be fitted with a pipe and valve or pipe cap to permit sampling behind seals.

(d) Areas surrounding seals or stoppings constructed of combustible or foam-type materials shall be kept free of sources of heat, including power cables, and combustible materials for a distance of at least 25 feet.

§ 57.38220 Line brattice and fan ducting.

Line brattice, fans with ducting, or other equivalent means shall be used to provide positive air flow across each working face.

§ 57.38221 Brattice cloth and ducting flame resistance.

Brattice cloth and ducting shall have a flame spread rating of 25 or less.

§ 57.38224 Air locks, overcasts and undercasts.

The main ventilation shall be arranged by means of air locks, overcasts, or undercasts so that passage of trips or persons does not cause interruptions of air currents. Where air locks are impracticable, single doors may be used if:

(a) The doors are attended constantly while areas affected by the doors are being worked, or

(b) The doors are self-closing.

§ 57.38225 Air doors.

Doors which control the flow of air by being closed shall be kept closed, except when persons or equipment are passing through. Doors shall be plainly marked to indicate whether they are to be closed or open for ventilation control.

§ 57.38226 Overcast and undercast construction.

Overcasts and undercasts shall be:

(a) Constructed to minimize leakage;

(b) Of substantial construction;

(c) Constructed either of noncombustible materials or exposed surfaces coated with at least one-inch of shotcrete or one-half inch of gunite or other material with equivalent fire resistance; and

(d) Kept clear of obstructions.

§ 57.38227 Preshift examination.

(a) Prior to the beginning of a shift following an idle shift, a competent person shall test the mine atmosphere of all working places for methane within 3 hours before persons other than examiners enter the mine.

(b) When one shift immediately follows another, a competent person on each shift shall test the mine atmosphere of each working place for methane before work is started on that shift.

(c) At least once during each 24-hour period a competent person shall test the mine atmosphere of areas other than those examined in paragraphs (a) and (b) of this section for methane.

§ 57.38228 Permissible testing devices.

(a) Portable, battery-powered, self-contained devices used for measuring methane, other gases, and contaminants in mine air shall be approved as permissible in accordance with 30 CFR Parts 18, 22, 27, and 29, as appropriate. Such devices shall be maintained in accordance with manufacturers' instructions, or an equivalent maintenance and calibration procedure.

(b) Permissible flame safety lamps shall not be used to test for methane except as a supplementary device.

(c) If electrically-powered remote sensing devices are used, that portion of the instrument located in return air or other places where combustible gases may be present shall meet with the

requirements of 30 CFR Parts 18, 22, 23, 27, and 29, as appropriate.

(d) If air samples are delivered to remote analytical devices through sampling tubes, such tubes shall be provided with in-line flame arrestors. Flame arrestors shall be located upstream from pumping equipment and analytical instruments. Pumping equipment and analytical instruments shall be located in intake air.

§ 57.38229 Mechanical ventilation.

All mines shall be ventilated mechanically.

§ 57.38231 Doors on main fans.

In mines ventilated by a combination of multiple main fans, each main fan installation shall be equipped with noncombustible doors. Such doors shall automatically close to prevent air reversal through the fan. The doors shall be located so that they are not in direct line with forces which could come out of the mine.

Equipment

§ 57.38301 Mine-wide monitoring system.

(a) A mine-wide monitoring system shall be installed to provide surface recordings of methane concentrations in the mine atmosphere from underground locations. Components of the system shall meet the requirements of 30 CFR Parts 18, 22, 23, and 27, as appropriate; or be intrinsically safe or explosion-proof.

(b) Mine-wide monitoring systems shall:

(1) Give audible and visible warnings on the surface and underground when methane at any sensor reaches 1.0 percent or more. Warning devices shall be located so they can be seen and heard by a responsible person designated by the mine operator.

(2) Automatically deenergize power underground when methane at any sensor reaches 1.5 percent; and

(3) Automatically deenergize power underground when power to the sensor is interrupted. Timing devices are permitted to avoid nuisance tripping for periods not to exceed 30 seconds.

(c) Recordings of methane shall be retained for at least one year, and shall be made available to an authorized representative of the Secretary.

(d) At least once every two weeks, the systems shall be checked with a known mixture of 1.0 percent methane, and calibrated if necessary. Certification of the calibration tests shall be by signature and date. Certification of calibration tests shall be retained for at least one year, and shall be made available to an authorized representative of the Secretary.

§ 57.38302 Permissible equipment.

All electrical and diesel-powered equipment used in or beyond the last open crosscut shall be permissible. Equipment shall not be operated in atmospheres containing 1.0 percent or more methane.

§ 57.38303 Methane monitors.

Methane monitoring devices (methane monitors) shall be installed on all electrical and diesel-powered equipment used in or by the last open crosscut. Such monitors shall be permissible in accordance with 30 CFR Part 27, except that the monitors shall give warning at 1.0 percent methane and automatically deenergize the equipment and prevent starting when methane levels reach 1.5 percent or more, and when power to the sensor is interrupted. The sensing unit of the monitors shall be positioned as close to the face as practical.

§ 57.38305 Distribution boxes.

Distribution boxes containing the short circuit protection for trailing cables of permissible equipment shall be certified explosion-proof in accordance with 30 CFR Part 18.

§ 57.38306 Flow-control devices.

Boreholes that penetrate oil bearing formations shall have devices to control the release of liquid hydrocarbons and hazardous gases.

§ 57.38307 Self-contained breathing apparatus.

One (1) hour, self-contained breathing apparatus sufficient in number to equip all persons undergound shall be strategically located throughout the mine. Such apparatus shall be approved in accordance with 30 CFR Part 11, and shall be maintained in accordance with manufacturers' specifications.

Illumination

§ 57.38501 Personal electric lamps.

Electric lamps which provide personal illumination shall be permissible in accordance with 30 CFR Parts 19 and 20, as appropriate.

Explosives

§ 57.38601 Blasting from the surface.

(a) All development, production, and bench rounds shall be initiated electrically from surface after all persons are out of the mine. Persons shall not reenter the mine until ventilating air has passed over the blast area through the mine-wide monitoring sensors. If the system indicates that methane in the mine is less than 1.0 percent, persons may enter the mine, and all places blasted shall be tested for methane by a competent person before work is started. Vehicles used for transportation when conducting these tests shall be permissible. If the monitoring system indicates the presence of methane in excess of 1.0 percent, persons shall not reenter the mine until the mine has been examined by a competent person and is free of methane.

(b) The mine shall be ventilated for at least 30 minutes after blasting before persons enter the mine.

§ 57.38602 Secondary blasting.

Prior to secondary blasting, tests for methane shall be made in the mine atmosphere at blast sites by a competent person. Secondary blasts shall not be initiated where 0.5 percent or more methane is present.

§ 57.38603 Explosive materials and blasting units.

Explosive materials and blasting units shall not be used until the mine operator has received written permission from the appropriate district manager for each explosive material and blasting unit to be used. In granting permission, the district manager will be guided by such factors as the oxygen balance and detonation temperatures, the conditions under which blasting is to be performed, and the applicability to the material mined. The mine operator shall comply with all conditions and procedures incorporated into an approval of an explosive material or blasting unit.

Category V–B

Scope

§ 57.39000 Scope.

Category V mines are petroleum mines that operate within or drill into an oil reservoir. Category V is divided into Subcategories V–A and V–B. Subcatetory V–B are petroleum mines that operate outside and drill into an oil reservoir and in which:

(a) A concentration of 0.25 percent or more methane has not been detected by air analysis in the mine atmosphere; or

(b) An ignition of methane has not occurred.

The safety standards for this subcatetory follow.

Fire Prevention and Control

§ 57.39101 Smoking.

Persons shall not smoke or carry smoking material, matches, or lighters underground. The operator shall institute a reasonable program to assure that persons entering the mine do not carry such items.

§ 57.39102 Open flame.

Open flames shall not be permitted underground except for welding, cutting, and other maintenance operations. When using open flames in other than fresh air, tests shall be conducted by a competent person in places where methane may enter the air current before work is started and at intervals not to exceed 5 minutes. Continuous methane monitors with alarms may be used as an alternative to the testing requirements for this standard. Open flames shall not be used in atmospheres containing 1.0 percent or more methane.

Ventilation

§ 57.39201 Main fans.

Main fans shall be:

(a) Installed on the surface;

(b) Installed in noncombustible housings provided with noncombustible air ducts;

(c) Driven either by electric motors or by internal combustion engines. When an internal combustion engine is used to power a main fan or as a standby engine, the engine shall be:

(1) Installed in a noncombustible housing;

(2) Installed so as to be protected from a possible fuel supply fire or explosion; and

(3) Installed so that the engine and exhaust are located out of direct line with the forward and reverse airstream provided by the fan. Engine exhaust gases shall be vented to the atmosphere so that exhaust gases cannot contaminate mine intake air.

(d) Offset not less than 15 feet from the nearest side of the mine opening to which the fan is connected. The fan installation shall be equipped with explosion-doors or a weak-wall located in direct line with possible explosion forces. The area of the doors or weak-wall shall be at least equivalent to the cross-sectional area of the airway;

(e) Provided with an automatic signal device to give warning or alarm when the air volume delivered by the fan slows or stops. The signal device shall be located so that it can be seen or heard by a responsible person designated by the mine operator at all times when persons are underground; and

(f) Approved as permissible or—

(1) All electrical equipment and cables located within or exposed to the forward and reverse airstream shall be approved, certified, or accepted by MSHA in accordance with 30 CFR Part 18;

(2) Drive belts and nonmetallic fan blades shall be constructed of static conducting material; and

(3) Fan blades shall be constructed of nonsparking materials. Aluminum alloy fan blades shall not contain more than 0.5 percent magnesium.

§ 57.39203 Separation of intake and return air.

The main intake and return air currents in mines shall be in separate shafts, slopes and drifts, except:

(a) Where multiple shafts are used for ventilation and a single shaft contains a curtain wall or partition for separation of air currents. Such wall or partition shall be constructed of reinforced concrete or equivalent, and provided with pressure-relief devices; or

(b) During development of openings to the surface:

(1) Ventilation tubing may be used for separation of main air currents in the same opening. Flexible ventilation tubing shall have a flame spread rating of 25 or less and shall not exceed 250 feet in length. Rigid ventilation tubing shall be constructed of noncombustible material.

(2) Only development related to making a primary ventilation connection may be performed beyond 250 feet of the shaft.

§ 57.39213 Actions at 0.25 percent methane.

If 0.25 percent or more methane is present in the mine atmosphere, ventilation changes shall be made to reduce the methane, and MSHA shall be notified immediately.

§ 57.39214 Actions at 0.5 percent methane.

If 0.5 percent or more methane is present in the mine atmosphere, ventilation changes shall be made immediately so that the methane is reduced to less than 0.5 percent. Until such changes are achieved, electrical power shall be deenergized and diesel equipment shall be shut off or immediately removed from the area. No other work shall be permitted in the affected area.

§ 57.39215 Actions at 1.0 percent methane.

If 1.0 percent or more methane is present in the mine atmosphere, all persons other than competent persons necessary to make corrections shall be withdrawn from the affected area until the methane is reduced to less than 0.5 percent.

§ 57.39216 Actions at 2.0 percent methane.

If 2.0 percent or more methane is present in the mine atmosphere, all persons other than competent persons necessary to make ventilation changes shall be withdrawn from the mine until the methane is reduced to less than 0.5 percent.

§ 57.39218 Seals and stoppings.

(a) All seals, and those stoppings that separate main intake from main return airways, shall be of substantial construction.

(b) Where seals and stoppings are constructed of combustible materials or foam-type blocks, exposed surfaces on both sides shall be coated with at least one-half inch of gunite, one-inch of shotcrete, or other coatings with equivalent fire resistance. Such seals and stoppings shall be provided with vertical supports or braces (stulls) which extend from floor to roof on both sides and are installed on not more than five-foot centers. Foam-type blocks used for seal or stopping construction shall be solid and at least 20 inches thick.

(c) At least one seal of every sealed area shall be fitted with a pipe and valve or pipe cap to permit sampling behind seals.

(d) Areas surrounding seals or stoppings constructed of combustible or foam-type materials shall be kept free of sources of heat, including power cables, and combustible materials for a distance of at least 25 feet.

§ 57.39221 Brattice cloth and ducting flame resistance.

Brattice cloth and ducting shall have a flame spread rating of 25 or less.

§ 57.39228 Permissible testing devices.

(a) Portable, battery-powered, self-contained devices used for measuring methane, other gases, and contaminants in the mine air shall be approved as permissible in accordance with 30 CFR Parts 18, 22, 27, and 29, as appropriate. Such devices shall be maintained in accordance with manufacturers' instructions, or an equivalent maintenance and calibration procedure.

(b) Permissible flame safety lamps shall not be used to test for methane except as a supplementary device.

(c) If electrically-powered remote sensing devices are used, that portion of the instrument located in return air or other places where combustible gases may be present shall meet the requirements of 30 CFR Parts 18, 22, 23, 27, and 29, as appropriate.

(d) If air samples are delivered to remote analytical devices through sampling tubes, such tubes shall be provided with in-line flame arrestors located upstream from pumping equipment and analytical instruments. Pumping equipment and analytical

instruments shall be located in intake air.

§ 57.39229 Mechanical ventilation.

All mines shall be ventilated mechanically.

Equipment

§ 57.39301 Mine-wide monitoring system.

(a) A mine-wide monitoring system shall be installed to provide surface recordings of methane concentrations in the mine atmosphere from underground locations. Components of the system shall meet the requirements of 30 CFR Parts 18, 22, 23, and 27, as appropriate; or be intrinsically safe or explosion-proof.

(b) Mine-wide monitoring systems shall:

(1) Give audible and visible warning on the surface and underground when the methane at any sensor reaches 0.25 percent or more. Warning devices shall be located so that they can be seen and heard by a responsible person designated by the mine operator.

(2) Automatically deenergize power underground when methane at any sensor reaches 0.5 percent; and

(3) Automatically deenergize power underground when power to the sensor is interrupted. Timing devices are permitted to avoid nuisance tripping for periods not to exceed 30 seconds.

(c) Recordings of methane shall be retained for at least one year, and shall be made available to an authorized representative of the Secretary.

(d) At least once every two weeks, the systems shall be checked with a known mixture of 0.5 percent methane, and calibrated if necessary. Certification of calibration tests shall be made by signature and date. Certification of calibration tests shall be retained for at least one year, and shall be available to an authorized representative of the Secretary.

§ 57.39303 Methane monitors.

Methane monitoring devices (methane monitors) shall be installed on all electrical and diesel-powerd equipment used on or beyond the last open crosscut. Such monitors shall be permissible in accordance with 30 CFR Part 27, except that the monitors shall give warning at 0.25 percent methane and automatically deenergize the equipment and prevent starting when methane levels reach 0.5 percent or more, and when power to the sensor is interrupted. The sensing unit of the monitors shall be positioned as close to the face as practical.

§ 57.39306 Flow-control devices.

Boreholes that penetrate oil bearing formations shall have devices to control the release of liquid hydrocarbons and hazardous gases.

Illumination

§ 57.39501 Personal electric lamps.

Electric lamps which provide personal illumination shall be permissible in accordance with 30 CFR Parts 19 and 20, as appropriate.

Category VI

Scope

§ 57.40000 Scope.

Category VI mines are mines in which the presence of methane has not been established and are not included in another category. The safety standards for this category follow.

Ventilation

§ 57.40001 Actions at 0.25 percent methane.

If 0.25 percent or more methane is present in the mine atmosphere, ventilation changes shall be made to reduce the methane, and MSHA shall be notified immediately.

§ 57.40002 Actions at 0.5 percent methane.

If 0.5 percent or more methane is present in the mine atmosphere, ventilation changes shall be made immediately so that the methane is reduced to less than 0.5 percent. Until such changes are achieved, electrical power shall be deenergized and diesel equipment shall be shut off or immediately removed from the area. No other work shall be permitted in affected areas.

§ 57.40003 Actions at 1.0 percent methane.

If 1.0 percent or more methane is present in the mine atmosphere, all persons other than competent persons necessary to make ventilation changes shall be withdrawn from the affected area until the methane is reduced to less than 0.5 percent.

§ 57.40004 Actions at 2.0 percent methane.

If 2.0 percent or more methane is present in the mine atmosphere, all persons other than competent persons necessary to make ventilation changes shall be withdrawn from the mine until the methane is reduced to less than 0.5 percent.

Note.—Appendices 1 and 2 will not be shown in the Code of Federal Regulations.

APPENDIX 1.—DERIVATION TABLE

Proposed No.	Preproposal draft No.	Existing No.
Procedures		
57.30001 Scope	58.21-1 Methane Hazard categorization.	57.21001.
57.30002 Definition	58.21-2 Mine categories.	
57.30003 Mine Category or Subcategory.	58.21-3 Methane occurrences and precautionary standards.	
57.30004 Placement or change in place investigation.	58.21-4 Notice and reviewment, notice and.	
57.30005 Notice and appeal of placement or change in placement.		
Classification during mine reclamation.		57.21002 deleted.
Standards		
Smoking:		
57.31101	58.21-110	57.21010.
57.32101	58.21-210	
57.33101	58.21-310	
57.34101	58.21-410	
57.36101	58.21-610	
57.37101 (smoking and open flames).	58.21-710	
57.38101	58.21-110	
57.39101	58.21-110	
Open flame:		
57.31102	58.21-111	57.21011 combined with 57.21012 and 57.21013.
57.33102	58.21-311	
57.34102	58.21-411	
57.36102	58.21-611	
57.38102	58.21-111	
57.39102	58.21-111	
Main fans:		
57.31201	58.12-120	57.21020.
57.32201	58.21-220	
57.33201	58.21-320	
57.34201	58.21-420	
57.35201	58.21-520	
57.36201	58.21-620	
57.37201	58.21-720	
57.38201	58.21-120	
57.39201	58.21-120	
Main fan operation and inspection:		
57.31202	58.21-121	57.21021
57.33202	58.21-321	
57.34202	58.21-421	
57.36202	58.21-621	
57.38202	58.21-121	
Welding and cutting in surface milling facilities:		
	58.21-313	New dropped.
Actions at 0.25 percent methane:		
57.32203	58.21-3	New.
57.35213	58.21-3	
57.39213		
57.40001	58.21-3	
Actions at 2.0 percent methane:		
57.32206		New.
57.35216		
57.37207	58.21-770	
57.39216		
57.40004		
Volatile dust:		
57.33103	58.21-99	New.
Separation of intake and return air:		
57.31203	56.21-122	
	58.21-123	57.21023 combined with 57.21022.

APPENDIX 1.—DERIVATION TABLE—Continued

Proposed No.	Preproposal draft No.	Existing No.
57.32202	58.21-222	
57.33203	58.21-223	
	58.21-322	
	58.21-323	
57.34203	58.21-422	
	58.21-423	
57.35207		
57.36203	58.21-622	
	58.21-623	
57.38203	58.21-122	
	58.21-123	
57.39203	58.21-122	
	58.21-123	
Main ventilation failure:		
57.31205	58.21-124	57.21024 combined with 57.21025.
57.33205	58.21-324	
57.34205	58.21-424	
57.36205	58.21-624	
57.38205	58.21-124	
Reentry after shutdown of main fans:		
57.31207	58.21-127	57.21027.
	58.21-227	
57.33207	58.21-327	
57.34207	58.21-327	
57.36207	58.21-627	
57.38207	58.21-127	
Booster fans:		
57.31206	58.21-129	57.21029 combined with 57.21026.
57.32207	58.21-229	
	58.21-329	
57.34208	58.21-429	
57.36208	58.21-629	
57.38208	58.21-129	
In-Line Filters:		
57.35205		New.
Auxiliary fans:		
57.31209	58.21-130	57.21030.
	58.21-230	
57.33209	58.21-330	
57.34209	58.21-430	
57.36209	58.21-630	
57.38209	58.21-130	
Auxiliary fan inspection:		57.21031 deleted.
Minimum air flow:		
57.31210	58.21-134	57.21033 combined with 57.21034.
57.33210	58.21-334	
57.34219		
57.36210	58.21-634	
57.38210	58.21-134	
Weekly testing:		
57.31211	58.21-135	57.21035 combined with 57.21065 and 57.21066.
57.32210	58.21-235	
57.33211	58.21-335	
57.34225	58.21-465	
57.36211	58.21-635	
57.38211	58.21-135	
Installation of support equipment:		
57.31212	58.21-136	57.21036.
	58.21-236	
57.33212	58.21-336	
57.36212	58.21-636	
Changes in ventilation:		
57.31213	58.21-138	57.21038.
57.34210	58.21-436	
57.36213	58.21-638	
57.38213	58.21-138	

APPENDIX 1.—DERIVATION TABLE—Continued

Proposed No.	Preproposal draft No.	Existing No.
Actions at 0.25, 0.5, and 1.0 percent methane:		
57.31214	58.21-139	57.21039.
57.32204		
57.33214	58.21-339	
57.34211	58.21-439	
57.35214		
57.36214	58.21-639	
57.37205	58.21-739	
57.38214	58.21-139	
57.39214	58.21-139	
57.40002	58.21-3	
Actions at 0.5, 1.0, 1.5, and 2.5 percent methane:		
57.31215	58.21-140	57.21040.
57.32205		
57.33215	58.21-340	
57.34212	58.21-440	
57.35215		
57.36215	58.21-640	
57.37206	58.21-740	
57.38215	58.21-140	
57.39215	58.21-140	
Air passing abandoned or unsealed areas:		
57.31216	58.21-141	57.21041 combined with 57.21042.
	58.21-341	
57.34213	58.21-441	
57.36216	58.21-641	
57.38216	58.21-141	
Abandoned areas:		
57.31217	58.21-143	57.21043.
	58.21-243	
	58.21-343	
57.34214	58.21-443	
57.36217	58.21-643	
57.38217	58.21-143	
Seals and Stoppings:		
57.31218	58.21-144	57.21044 combined with 57.21045 and 57.21053.
	58.21-153	
57.32213	58.21-244	
	58.21-253	
57.33218	58.21-344	
	58.21-353	
57.34215	58.21-444	
	58.21-453	
57.36218	58.21-644	
	58.21-653	
57.38218	58.21-144	
	58.21-153	
57.39218	58.21-144	
	58.21-153	
Crosscut intervals:		
	58.21-146	57.21046 deleted.
	58.21-246	
	58.21-446	
	58.21-646	
Line brattice and fan ducting:		
57.31220	58.21-148	57.21048.
	58.21-248	
	58.21-348	
57.34217	58.21-448	
57.36220	58.21-648	
57.38220	58.21-148	
Brattice cloth and ducting flame resistance:		
57.31221	58.21-149	57.21049.
57.32216	58.21-249	
57.33224		
57.34218	58.21-449	
57.36221	58.21-649	
57.38221	58.21-149	
57.39221	58.21-149	
Damaged brattices:		57.21050 deleted.

APPENDIX 1.—DERIVATION TABLE—Continued

Proposed No.	Preproposal draft No.	Existing No.
Cross cuts before abandonment:		
57.36222	57.21-051	57.21051.
Room necks and stub entries:		57.21052 deleted.
Air locks, overcasts and undercasts:		
	58.21-155	57.21055.
	58.21-255	
	58.21-455	
57.36224	58.21-655	
57.38224	58.21-155	
Air locks:		57.21056 deleted.
Air doors:		
	58.21-157	57.21057.
	58.21-257	
	58.21-457	
57.36225	58.21-657	
57.38225	58.21-157	
Overcast and undercast construction:		
57.31226	58.21-158	57.21058.
	58.21-258	
57.34222	58.21-458	
57.36226	58.21-658	
57.38226	58.21-158	
Preshift examination:		
57.31227	58.21-159	57.21059.
57.33221	58.21-359	
57.34223	58.21-459	
57.36227	58.21-659	
57.38227	58.21-159	
Dangerous conditions:		57.21061 deleted.
Danger signs:		57.21062 deleted.
Permissible testing devices:		
57.31228	58.21-164	57.21064.
57.32221	58.21-264	
57.33222	58.21-364	
57.34224	58.21-464	
57.35202	58.21-564	
57.36228	58.21-664	
57.37203	58.21-764	
57.38228	58.21-164	
57.39228	58.21-164	
Mechanical ventilation:		
57.31229	58.21-176	57.21076.
57.32222	58.21-257	
57.33223	58.21-367	
57.34226	58.21-467	
57.35229	58.21-567	
57.36229	58.21-667	
57.37202	58.21-721	
57.38229	58.21-167	
57.39229	58.21-167	
Air flow in intake and return course:		
	58.21-168	57.21068.
	58.21-268	
	58.21-368	
57.36230	58.21-668	
Doors on main fans:		
57.31230	58.21-169	57.21069.
	58.21-269	
57.34227	58.21-469	
57.36231	58.21-669	
57.38231	58.21-169	
Mine-wide monitoring system:		
57.31901	58.21-172	New
57.34301	58.21-472	
57.38301	58.21-172	
57.39301	58.21-172	
Electrical grounding:		
57.33301	58.21-373	New.
Pressure-relief vents:		
57.33302	58.21-374	New.
Jacketed and shielded cables:		
57.33303	58.21-375	New.

APPENDIX 1.—DERIVATION TABLE—Continued

Proposed No.	Preproposal draft No.	Existing No.
57.34302 (jacketed).	58.21-475	
Permissible equipment:		
57.31303	58.21-176	57.21076 combined with 57.21076
57.33304	58.21-378	
57.34303	58.21-478	
57.36302	58.21-678	
57.38302	58.21-178	
Distribution boxes:		
57.34304	58.21-479	57.21079.
57.38305		
Trolley wires:		
	58.21-177	57.21077 deleted.
	58.21-677	
Methane monitors:		
57.31305	58.21-180	57.21080.
	58.21-380	
57.34305	58.21-480	
57.36303	58.21-680	
57.38303	58.21-180	
57.39303	58.21-180	
Flow-control devices:		
57.38306		New.
57.39306		

APPENDIX 1.—DERIVATION TABLE—Continued

Proposed No.	Preproposal draft No.	Existing No.
Self-contained breathing apparatus:		
57.38307		New.
Underground retort plan:		
57.31401	58.21-181	
57.32401	58.21-281	
Blasting:		
	58.21-392	New dropped.
Advance face boreholes:		
57.33701	58.21-391	New.
Personal electric lamps:		
57.31501	58.21-190	57.21090.
57.32501	58.21-290	
57.33501	58.21-390	
57.34501	58.21-490	
57.36501	58.21-690	
57.37501		
57.38501	58.21-190	
57.39501	58.21-190	
Blasting from the surface:		
57.31601	58.21-193	New.
57.33603	58.21-393	
57.34601	58.21-493	
57.35601	58.21-593	
57.38601	58.21-193	

APPENDIX 1.—DERIVATION TABLE—Continued

Proposed No.	Preproposal draft No.	Existing No.
Secondary blasting:		
57.31602	58.21-194	New.
57.34602	58.21-494	
57.38602	58.21-194	
Explosive material and blasting units:		
57.31603	58.21-195	57.21095 combined with 57.21096 and 57.21097.
57.32601	58.21-295	
57.33604	58.21-395	
57.34603	58.21-495	
57.38601	58.21-695	
57.38603	58.21-195	
Stemming:		
	58.21-698	57.21098 deleted.
Blasting on shift:		
57.36603	58.21-699	57.2109 combined with 57.21100.
Testing for methane:		
57.37204	58.21-721	New.

BILLING CODE 4510-43-M

APPENDIX 2

Action Levels and Standards Table

	CATEGORY I			CATEGORY II		CATEGORY III	CATEGORY IV	CATEGORY V		CATEGORY VI
Actions	I-A	I-B	I-C	II-A	II-B			V-A	V-B	
Notification		57.32203 0.25%			57.35213 0.25%				57.39213 0.25%	57.40001 0.25%
Ventilation Changes Deenergize Equipment	57.31214 1.0%	57.32204 0.5%	57.33214 0.25%	57.34211 0.5%	57.35214 0.5%	57.36214 1.0%	57.37205 0.5%	57.38214 1.0%	57.39214 0.5%	57.40002 0.5%
Withdraw Area	57.31215(a) 1.5%	57.32205 1.0%	57.33215 0.5%	57.34212 1.0%	57.35215 1.0%	57.36215(a) 1.5%	57.37206 1.0%	57.38215 1.5%	57.39215 1.0%	57.40003 1.0%
Reenter Area	-1.0%	-0.5%	-0.25%	-0.5%	-0.5%	-1.0%	-0.5%	-1.0%	-0.5%	-0.5%
Withdraw Mine		57.32206 2.0%			57.35216 2.0%		57.37207 2.0%		57.39216 2.0%	57.40004 2.0%
Reenter Mine		-0.5%			-0.5%		-0.5%		-0.5%	-0.5%
Bleeder System	57.31215(b)					57.36215(b)				
Limit	2.0%					2.0%				
Corrective Action	+2.0%					+2.0%				
Withdraw from Area	2.5%					2.5%				
Reenter	-2.0%					-2.0%				

Action Levels and Standards Table

Actions	CATEGORY I			CATEGORY II		CATEGORY III	CATEGORY IV	CATEGORY V		CATEGORY VI
	I-A	I-B	I-C	II-A	II-B			V-A	V-B	
Deenergize Mine Power	1.0%	1.0%								
Withdraw Mine	1.0%	1.0%								
Deenergize Main Fans Exhausting	2.0%	2.0%								
Booster Fans	57.31208	57.32207		57.34208		57.36208		57.38208		
Deenergized	1.0%	1.0%		0.5%		1.0%		1.0%		
Auxiliary Fans	57.31209			57.34209		57.36209		57.38209		
Not Operated In	1.0%			0.5%		1.0%		1.0%		
Main Ventilation Failure			57.33205							
Withdraw Mine			0.5%							
Reentry After Main Pan Shutdown	57.31207		57.33207	57.34207		57.36207		57.38207		
	1.0%		0.25%	0.5%		1.0%		1.0%		

Action Levels and Standards Table

Actions	CATEGORY I			CATEGORY II		CATEGORY III	CATEGORY IV	CATEGORY V		CATEGORY VI
	I-A	I-B	I-C	II-A	II-B			V-A	V-B	
Mine-Wide Monitors	57.31301			57.34301				57.38301	57.39301	
Alarm	1.0%			0.25%				1.0%	0.25%	
Deenergize Mine Power	1.5%			0.5%				1.5%	0.5%	
Checked	1.0%			0.5%				1.0%	0.5%	
Methane Monitors	57.31305			57.34305		57.36303		57.38303	57.39303	
Alarm	1.0%			0.5%		1.0%		1.0%	0.25%	
Deenergize Equipment	+1.5%			+1.0%		+1.5%		+1.5%	+0.5%	
Permissible Equipment	57.31303			57.34303		57.36302		57.38302		
Not Operated In	+1.0%			+0.25%		+1.0%		+1.0%		
Main Fans Exhausting	57.31201	57.32201								
Alarm	0.5%	0.5%								
Deenergize Mine Power	1.0%	1.0%								

[FR Doc. 13222 Filed 6-3-85; 8:45 am]
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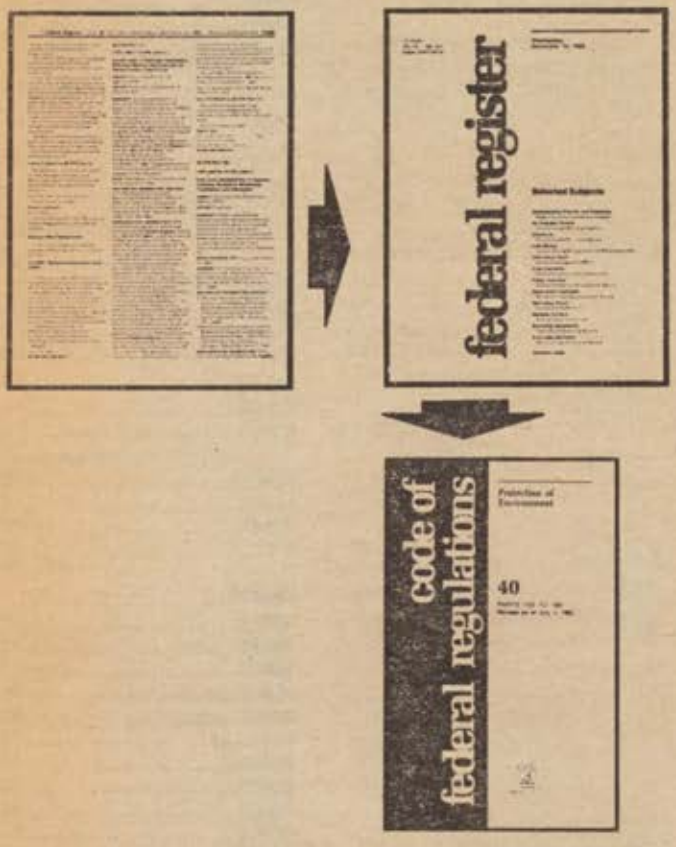

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